

A N
ELEMENTARY ANALYSIS
OF THE
LAWS AND REGULATIONS

ENACTED BY THE
GOVERNOR GENERAL IN COUNCIL,

AT FORT WILLIAM IN BENGAL,

FOR THE
CIVIL GOVERNMENT OF THE BRITISH TERRITORIES
UNDER THAT PRESIDENCY.

I N S I X P A R T S.

VOL. II.

COMPRISING FOUR SECTIONS OF THE
THIRD PART,
OR

RULES FOR THE PUBLIC OFFICERS IN THE REVENUE DEPARTMENT;
THE ASSESSMENT AND COLLECTION OF THE LAND REVENUE;
AND SUBJECTS IMMEDIATELY CONNECTED;
INCLUDING THE COINAGE.

BY
JOHN HERBERT HARINGTON,
PRESIDENT OF THE COUNCIL OF THE COLLEGE OF FORT WILLIAM;
AND LATE PROFESSOR, UNDER THAT INSTITUTION, OF THE
LAWS AND REGULATIONS.

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NEARLY seven years have elapsed since the first Volume of this Analysis was printed; and the second could not have been completed within a longer period, under the constant pressure of official duties, if the discharge of these had not been interrupted by a voyage to the Cape of Good Hope. The materials of the present Volume were arranged, and in a great degree prepared for the Press, during my absence from Bengal. Considerable preparation was also made, at the same time, for another Volume; to which it has been found necessary to extend the work, in consequence of a more diffuse method having been adopted in citing the Regulations, with a view to render it useful beyond the walls of the College, for which it was originally designed. The Honorable the Vice President in Council, to whom this alteration in the plan of my Analysis was reported in June last, was pleased to approve it, as appearing "calculated to augment its utility in a material degree." The Honorable Court of Directors, in a letter to His Excellency the Governor General in Council, dated the 28th October 1811, have also expressed, in terms highly flattering to the Author, their approbation of the first and second parts of the work, comprised in the first Volume; with their desire to have it completed according to the design stated in the Introduction. This could not fail to animate every exertion in my power, consistent with the indispensable obligations of my judicial functions, to expedite the remaining parts of an undertaking, which, to render the performance of it in any degree satisfactory to myself, has required more time and labour than I had anticipated. But the second Volume, which is now finished, having occupied my own leisure, and that of the Press, for a period of two years; I cannot expect that the third Volume, which must include several Sections of the third part, besides the whole of the fourth, fifth, and sixth parts (described in the Introduction to the first Volume) will be concluded and published in less than two additional years, from this time. I shall only

add, that the present Volume (if accurate in the accomplishment of its object) besides an Introduction to the existing Revenue System, comprising a retrospective view of the principal arrangements in the Revenue Department, under this Presidency, antecedently to those introduced, or confirmed, by the Regulations of 1793; and a Section including the powers and duties of the present revenue officers; viz. the Board of Revenue at the Presidency, and Board of Commissioners for the upper provinces; with the jurisdiction of each as a court of wards; the collectors and their assistants; and the native officers employed in the Revenue Department; contains a full statement of all the rules in force at the end of the year 1815, relative to the assessment and collection of the land revenue, and subjects immediately connected therewith; the construction and repair of public embankments, reservoirs, and water-courses; the division and union of estates; lands exempt from assessment; and pensions formerly paid by the landholders and farmers of land, but now included in the public assessment, and payable by Government. Also the regulations for the coinage, in force at the same period. The following sections, upon subjects which likewise appertain to the Third Part of this Analysis, are postponed for the next Volume. Section V, Market duties; and *Sayer* abolished. VI, Town duties. VII, Customs. VIII, Toll on canals; and ferries. IX, Duty on stone quarries. X, Stamp duties. XI. Tax on liquors and drugs. XII. Tax on pilgrims.

J. H. HARRINGTON.

Calcutta, December 21, 1815. ✓



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THIRD PART.

SECTION I.

INTRODUCTION TO THE PRESENT REVENUE SYSTEM.

A COMMITTEE of the House of Commons, appointed in November 1772, to inquire into the state of the East India Company, in their Fifth Report, on the Revenues of Bengal and Bchar, stated them to consist of the following articles. 1, Rents of lands. 2, Duties and customs. 3, Farms of exclusive privileges. 4, Fines and forfeitures. A similar division, with verbal alterations of the first and third heads, might be observed at the present time. But it will be more convenient, in this Analysis of the Regulations enacted upon each subject, to treat of the several articles of revenue to which they relate, under the following distinctions. 1, Land revenue. 2, Coinage. 3, Market duties. 4, Town duties. 5, Customs. 6, Toll on canals, and ferries. 7, Duty on stone quarries. 8, Stamp duties. 9, Tax on liquors and drugs. 10, Tax on pilgrims. 11, Opium monopoly. 12, Salt monopoly. 13, Saltpetre monopoly.*

Articles of revenue stated by a committee of the House of Commons in 1772.

Distinctions and order proposed to be observed in this analysis.

* Fees, fines, and forfeitures, though amounting to ten lacks of rupees, on a yearly average, do not form a separate head in this enumeration, because the rules, which relate to them, are dispersed in the regulations concerning the other articles specified. The Post Office, which yields a net revenue (beyond the actual expense) of nearly a lack of rupees per annum, is also omitted, because the rules for it (detailed in the Calcutta Directory) are not printed and published in any of the regulations, to which this work is restricted.

THE three articles last mentioned, being under the 'superintendence of the Board of Trade, will, as originally proposed, be included in the fifth part of this work, relative to the commercial department. But the customs having, by Regulation 9, 1810, been placed under the control of the Board of Revenue, and Board of Commissioners for the upper provinces, the rules in force concerning them will be exhibited, in the order specified, with the rules which have been enacted, for the guidance of the public officers, and for general information, relative to the other articles of public revenue; either at the time when the present system of assessment, collection, or management, was established, or subsequently; in the mode prescribed by Regulation 41, 1793, "for forming into a regular code all regulations that may be enacted for the internal government of the British territories in Bengal." Previously however to a detail of the existing system, it may be useful to give a retrospective view of the principal arrangements made in the Revenue Department, antecedently to those which were introduced, or confirmed, by the regulations of 1793.

With previous retrospect of arrangements made before those introduced, or confirmed, in 1793.

Periods of acquiring the Company's possessions in Bengal, Behar and Orissa, already noticed.

THE periods at which the East India Company acquired their territorial possessions in Bengal, Behar and Orissa, from their purchase of Calcutta and two adjacent villages, in 1698, to the deewanny grant of the three provinces (exclusive of Cuttack) in 1765, have been already noticed.* It has also been observed, that the

* In pages 2 to 6 of Vol. 1. The following narrative of the first period of the Company's deewanny administration, (from 1765 to 1769) has been since given in the fifth report of a select committee of the House of Commons, dated 28th July 1812. "The deewanny authority over the provinces of Bengal, Behar, and Orissa, was conferred in perpetuity on the East India Company, by a firman or royal grant, in August 1765. The Nawab of Bengal, NUJUM-ool-DOWLAH, had already, as the condition of his succeeding to the Musnud, on the decease of his father JAFFIER KHAN, agreed to entrust the administration of the Subahdarry to the management of a Naib, or deputy, appointed by the advice of the Governor in Council. By a further agreement, dated 30th September 1765, the Nawab recognized the grant of the deewanny to the Company, and consented to accept a fixed stipend for the maintenance of himself and his household. Whatever further expense, within certain limits, might be found necessary for the support of the dignity of the nizamat, was to be disbursed through the deputy chosen by the English government.

the administration of the revenues was conducted, for the most part, through native agency, till the year 1772. The villages abovementioned, with others in the vicinity of Calcutta, and the twenty-four Pergunnahs, which constituted the Company's zemindary, under the treaty with JAFUR ALY KHAN in 1757, as well as the three chuklahs of Burdwan, Midnapore, and Chittagong, ceded by CASIM ALY KHAN in 1760, were indeed under the superintendence of the Company's European servants. But the remainder of the provinces, usually called the *deewany* lands, were left under the immediate management of two naib deewans, one stationed at Moorshedabad, the other at Patna. The former, MOHUMMUD REZA KHAN, during five years which elapsed before the appointment of supervisors in 1769, possessed, with his assistants, DOOLUBRAH and JUQUT SEET,* an almost exclusive direction of all details relative

As well as native administration of the revenues till 1772.

Further mention of this period.

to

In the following year, the President of the Council of Fort William (Lord CLIVE) took his place as Dewan, or collector of the revenue, for the Mogul; and in concert with the Nawab, who sat as Nazim, opened the pooneah or ceremonial of commencing the annual collections in the durbar, held at Mootyghel near Moorshedabad. From this time the functions of nazim, as well as of dewan, were ostensibly exercised by the British government; the latter, in virtue of the grant from the Emperor, and the former, through the influence possessed over the naib or-deputy; the Nawab Nazim himself having submitted to become virtually a pensioner of the state. But though the Civil and Military power of the country, and the resources for maintaining it, were assumed on the part of the East India Company, it was not thought prudent, either by the local government, or the directors, to vest the immediate management of the revenue, or the administration of justice, in the European servants. It may indeed appear doubtful whether the European servants, at this time, generally possessed sufficient knowledge of the civil institutions and the interior state of the country, to qualify them for the trust. A resident at the Nawab's court, who inspected the management of the naib dewan, and the chief of Patna, who superintended the collections of the province of Behar, under the immediate management of SHETAB ROY, maintained an imperfect controul over the civil administration of the districts included in the dewanny grant; while the zemindarry lands of Calcutta, and the 24 Pergunnahs, and the ceded districts of Burdwan, Midnapore, and Chittagong, which at an earlier period had been obtained by special grant from the Nawab of Bengal, were superintended by the covenanted servants of the Company."

* These were appointed, before the deewany cession, to carry on the public business under the Nawab NUJUM-OO-DOULAH. See resolution of the President and Council, 21st June 1765, "That ROY-DULUB and JUQUT-SEET be associated in the administration of the Government, with MOHUMMUD REZA KHAN, as persons whose characters afford the fairest prospect of giving stability to the present government; and that each enjoy an equal share of power and authority." *Fifth report of select committee of House of Commons, 1772. Appendix No. 84*; which also contains rules for the guidance of the three ministers entitled "Regulations for the provinces of Bengal, Bahar, and Orissa," with a concluding

to the settlement and collections of the Bengal districts; being subject only to the inspection of the Company's resident at the durbar; whilst the same authority was exercised by SHITAB ROY over the revenues of Behar, under the general superintendence of the chief of Patna.

Appointment of
supervisors in
1769.

And objects pro-
posed by their
instructions.

IN the year 1769, several of the Company's covenanted servants were deputed into the districts of Bengal, to act in subordination to the resident at the durbar, as local supervisors over the native officers employed in the collection of the revenues and administration of justice.* They were furnished with detailed instructions "to ascertain in a minute, clear, and comprehensive manner;" 1st, A summary history of each district, from the period of SHOOJ Â KHÂN's Soobadary of Bengal (1726 to 1739) which was considered to be the "era of good order and good government;" 2dly, The state, produce, and capacity of the lands; 3dly, The amount of the revenues, the cesses or arbitrary taxes, and all demands whatever made on the ryot, by government or the zemindar, with the manner of collecting them, and the gradual rise of every new impost; 4thly, The nature and extent of the different manufactures, and what impositions were levied from the manufacturers, with other particulars required to be known for the regulation of commerce; and 5thly, Whatever might tend to obtain a knowledge of actual abuses and promote the reform of them in the administration of justice. The instructions upon these points, which were issued to the supervisors in the form of a letter from the resident at the durbar (Mr. BECHER) appear to have been,

These instructions will be calculated for the purpose intended.

concluding resolution that, "for the preservation of friendship and harmony, and the care of the Nabob's affairs and the Company's money, a gentleman of council, probity, and abilities, shall be appointed to reside at the capital on the part of the Company." No. 86, of the same appendix, is a letter from the President and Council to the Court of Directors, dated 30th September 1765, advising them of the deewany grant, and of the measures adopted in consequence.

* The appointment of supervisors was erroneously noticed in the first volume, page 8, as having taken place in 1770. But the resolution of the president and select committee, under which they were appointed, is dated 16th August 1769. See proceedings of select committee, and also letter of instructions to the supervisors, prepared by Mr. VERELST, in third volume of Mr. F. COLEROCKE's Digest, page 174.

in general, well calculated for the purpose intended by them ; and to have vested the supervisors with considerable authority. It is unnecessary to specify them more particularly ; but I cannot deny myself the satisfaction of bringing forward the concluding exhortation, as being applicable to all public officers, employed at any time in similar situations. “ Your Commission entrusts you with the superintendence and charge of a province, whose rise and fall must considerably affect the public welfare of the whole. The exploring and eradicating numberless oppressions, which are as grievous to the poor, as they are injurious to the government ; the displaying of those national principles of honour, faith, rectitude, and humanity, which should ever characterise the name of an Englishman ; the impressing the lowest individual with these ideas, and raising the heart of the ryot from oppression and despondency to security and joy ; are the valuable benefits which must result to our nation from a prudent and wise behaviour on your part. Versed as you are in the language, depend on none, where you yourself can possibly hear and determine. Let access to you be easy, and be careful of the conduct of your dependents. Aim at no undue influence yourself, and check it in all others. A great share of integrity, disinterestedness, assiduity, and watchfulness, is necessary, not only for your own guidance, but as an example to all others ; for your activity and advice will be in vain unless confirmed by example. Carefully avoid all interested views by commerce, or otherwise, in the province, whilst on this service ; for, though ever so fair and honest, it will awaken the attention of the designing ; double the labour of developing stratagems ; and of removing burthens and discouragements with which the commerce of the country in general has been loaded. You have before you a large field to establish both a national and private character ; lose not the opportunity, which is to be temporary only, for your whole proceedings will be quickly revised : a test which the Board consider due to themselves, as a confirmation of the propriety of their choice ; to you, as an act of justice to your conduct ; and to the public, for the security of its inter-

ests. As the extent and importance of your trust are great, so in proportion will be the approbation or censure, arising from your good or ill conduct in it, be attended with unusual distinction, or particular severity. Sentiments, which I convey to you, to show the degree of confidence the Board repose in your integrity and abilities; but by which I mean not the remotest suspicion, either in them or myself, of your disappointing their expectations.”

Two revenue councils established in 1770.

But arrangement not successful. And improvement of revenue frustrated by a famine.

Collections kept up notwithstanding loss of a third of the inhabitants of Bengal.

Remark of President and Council on subject in 1772, and on administration of the seven preceding years.

THE appointment of supervisors was followed, in 1770, by the institution of two revenue councils of control, one at Moorshe-dabad, the other at Patna. But this arrangement does not appear to have been successful. The improvement of the public revenue, which might have been expected from it, was indeed frustrated, in a material degree, by a dreadful famine, in the year 1770, which was computed to have destroyed a third of the inhabitants of Bengal*. Notwithstanding this mortality, and the consequent decrease of cultivation, the net collections of revenue in the year succeeding the famine, (Bengal year 1178 or 1771-2), were stated in a letter from the President in Council to the Court of Directors, dated 3d November 1772, to have exceeded, not only those of 1769-70, the year of dearth which preceded the famine, but those of the antecedent year 1768-9. On this subject, and upon the administration of the seven preceding years, the President and Council (in the letter referred to) remark as follows, “It was naturally to be expected that the diminution of the revenue should have kept an equal pace with the other consequences of so great a calamity; that it did not, was owing to its being violently kept up to its former standard. To ascertain all the means by which this

* See letter from President and Council to the Court of Directors, dated 3d November 1772, and printed with the fifth report of the committee of secrecy appointed by the House of Commons in that year. The same report contains a statement of the gross and net revenues of Bengal, Behar, and Orissa, from May 1771 to April 1772; and a similar statement from 1758-9 to 1770-1, is included in the fourth report, which (with the fifth, its supplement,) comprises much authentic information relative to the commencement, and early period, of the Company's revenue administration in Bengal, Behar, and Orissa.

was effected will not be easy ; it is difficult to trace the progress of the collections through all its intricate channels ; or even to comprehend all the articles which compose the revenue in its first operations. One tax, however, we will endeavour to describe, as it may serve to account for the equality which has been preserved in the past collections ; and to which it has principally contributed. It is called *Najay*, and is an assessment upon the actual inhabitants of every inferior division of the lands, to make up the loss sustained in the rents of their neighbours, who are either dead or have fled the country. This tax, though equally impolitic in its institution, and oppressive in the mode of exacting it, was authorized by the ancient and general usage of the country. It had not the sanction of government, but took place as a matter of course. In ordinary cases, and while lands were in a state of cultivation, it was scarcely felt ; and never, or rarely, complained of. However irreconcilable to strict justice, it afforded a reparation to the state for occasional deficiencies ; it was a kind of security against desertion, by making the inhabitants thus mutually responsible for each other ; and precluded the inferior collector from availing himself of the pretext of waste or deserted lands, to withhold any part of his collections. But the same practice, which at another time, and under different circumstances, would have been beneficial, became at this period an insupportable burthen upon the inhabitants. The tax not being levied by any fixed rate, or standard, fell heaviest upon the wretched survivors of those villages, which had suffered the greatest depopulation, and were of course the most entitled to the lenity of government. It had also this additional evil attending it, in common with every other variation from the regular practice, that it afforded an opportunity to the farmers and shiedars, to levy other contributions on the people under colour of it ; and even to increase this to whatever magnitude they pleased ; since they were in course the judges of the loss sustained, and of the proportion which the inhabitants were to pay to replace it. Complaints against this grievance were universal throughout the province ; and it was to be feared that the continuance of it

It would be so great a check to the industry of the people, as to impoverish the revenue in the last degree, when their former savings, by which it was supported, were gone. Though seven years had elapsed since the Company became possessed of the dewany, yet no regular process had ever been formed for conducting the business of the revenue. Every zemindarce, and every taalook, was left to its own particular customs: These indeed were not inviolably adhered to; the novelty of the business to those who were appointed to superintend it; the chicannery of the people whom they were obliged to employ as their agents, the accidental exigencies of each district, and not unfrequently the just discernment of the collector, occasioned many changes. Every change added to the confusion which involved the whole; and few were either authorized, or known, by the presiding members of the government. The articles which composed the revenue, the form of keeping accounts, the computation of time, even the technical terms, which ever form the greatest part of the obscurity of every science, differed as much as the soil and productions of the province: This confusion had its origin in the nature of the former government: The nazim exacted what they could from the zemindars, and great farmers of the revenue; whom they left at liberty to plunder all below; reserving to themselves the prerogative of plundering them in their turn, when they were supposed to have enriched themselves with the spoils of the country. The mutteseddees, who stood between the nazim and the zemindars; or between them and the people, had each their respective shares of the public wealth: These profits were considered as illegal embezzlements, and therefore were taken with every caution which could ensure secrecy; and being consequently fixed by no rules, depended on the temper, abilities, or power, of each individual for the amount: It therefore became a duty to every man to take the most effectual measures to conceal the value of his property, and elude every enquiry into his conduct, while the zemindars and other landholders, who had the advantage of long possession, availed themselves of it, by complex divisions of the lands, and intricate modes

modes of collection, to perplex the officers of the government, and confine the knowledge of the rents to themselves. It will be easily imagined, that much of the current wealth stopped in its way to the public treasury. It is rather foreign from the purpose of this exposition, but too apposite not to be remarked, that it was fortunate such a system did prevail, since the embezzlements, which it covered, preserved the current specie of the country, and returned it into circulation; while a great part of the wealth, received by the government, was expended in the country, and but a small superfluity remained for remittances to the court of Delhee, where it was lost for ever to this province. To the original defects in the constitution of these provinces, were added the unequal and unsettled government of them. Since they became our property, a part of the lands which were before in our possession, such as Burdwan, Midnapore and Chittagong, continued subject to the authority of their chiefs, who were immediately accountable to the presidency. The 24 pergunnahs, granted by the treaty of Plassey to the Company, were theirs on a different tenure, being their immediate property, by the exclusion of the zemindars, or hereditary proprietors; their rents were received by agents appointed to each pergunnah, and remitted to the collector, who resided in Calcutta; the rest of the province was for some time entrusted to the joint charge of the naib dewan and resident at the durbar, and afterwards to the council of revenue at Moorshedabad, and to the supervisors who were accountable to that council. The administration itself was totally excluded from a concern in this branch of the revenue. The internal arrangement of each district varied no less than that of the whole province. The lands subject to the same collectors, and intermixed with each other, were some held by farm; some superintended by shicdars, or agents on the part of the collector; and some left to the zemindars or talookdars themselves, under various degrees of controul. The first were racked without mercy, because the leases were but of a year's standing, and the farmer had no interest, or check, to restrain him from exacting more than the land could bear; the second were

equally drained and the rents embezzled, as it was not possible for the collector, with the greatest degree of attention on his part, to detect or prevent it; the latter, it may be supposed, were not exempted from the general corruption; if they were, the other lands which lay near them would suffer by the migration of their inhabitants, who would naturally seek refuge from oppression in a milder and more equitable government. The administration of justice has so intimate a connection with the revenue, that we cannot omit the mention of it, while we are treating of this subject in a general view, although we have already given our sentiments upon it at large in another place, to which we shall crave leave to refer. The security of private property is the greatest encouragement to industry, on which the wealth of every state depends. The limitation of the powers annexed to the magistracy, the suppression of every usurpation of them by private authority, and the facilitating of the access to justice, were the only means by which such a security could be obtained: but this was impossible under the circumstances which had hitherto prevailed. While the nizamat, and the dewanee, were in different hands, and all the rights of the former were admitted; the courts of justice, which were the sole province of the nazim, though constituted for the general relief of the subjects, could receive no reformation. The court and officers of the nizamat were continued; but their efficacy was destroyed by the ruling influence of the dewanee. The regular course of justice was every where suspended; but every man exercised it, who had the power of compelling others to submit to his decisions. The people were oppressed; they were discouraged; and disabled from improving the culture of their lands; and in proportion as they had the demands of individuals to gratify, they were prevented from discharging what was legally due to government. Such was the state of the revenue when your commands were received by the lapwing, and happily removed the difficulties which had hitherto opposed the introduction of a more perfect system, by abolishing the office of naib dewan, and authorizing your administration

tration to assume openly the management of the dewannee in your name, without any foreign intervention. In the execution of these your intentions, the points which claimed our principal attention, as will appear by the above description, were, to render the accounts of the revenue simple and intelligible; to establish fixed rules for the collections; to make the mode of them uniform in all parts of the province; and to provide for an equal administration of justice."

THE plan suggested by the committee of circuit on the 5th August, and adopted by the council, on the 21st August 1772, for the more regular and effectual administration of justice, civil and criminal, has been noticed in the first part of this analysis*. It will now be requisite to state the arrangements made in the revenue department, under the determination of the Court of Directors, communicated in their general letter of the 28th August 1771, "to stand forth as duan, and by the agency of the Company's servants to take upon themselves the entire care and management of the revenues." The Honorable Court having, in this letter, authorized and required the President and Council to divest MOHUMMUD REZA KHAN, and every person employed by him, or in conjunction with him, of any further charge or direction in the business of the collections, expressing, at the same time, their confidence, that the President in Council would adopt such regulations, and pursue such measures, as should ensure to the Company every possible advantage, and free the ryots from oppressions†, a proclamation was issued, on the 11th May 1772, notifying the removal of the Newab MOHUMMUD REZA KHAN from his station of naib deewan, and that the duties of the office

Plan for administration of justice adopted at this period, before noticed.

What arrangement made in the revenue department.

Instructions of the Court of Directors for removing MOHUMMUD REZA KHAN from the office of naib deewan.

And proclamation issued in consequence, 11th May 1772.

* This plan, with a copy of the letter from the committee of circuit which accompanied it, and a paragraph from the letter of the President and Council to the Court of Directors, dated 3d November 1772 (referred to in the extract before given from the same letter) are printed in appendix No. 2 to the sixth report of the committee of secrecy, erroneously cited as the fifth report in a note to page 8, of the first volume of this work. The plan and letter of the committee of circuit have also been printed in the third volume of Mr. ED. COLENROOKE'S digest, pages 1 to 13.

† See commencement of fifth report of secret committee, 1772.

Similar advertisement removing SHYAM RAJ from office of naib deewan in province of Bahar.

Revenues of this province already settled for a term of years.

And settlement of five years determined on for Bengal and Orissa.

Committee of circuit to make settlements of Bengal.

Reasons assigned for this measure.

Company's servants employed in the collections to be called collectors, instead of supervisors.

And deewans joined with them

would, for the present, be performed by the chief and council of revenue at Moorshedabad.* A similar advertisement was issued at Patna, removing RAJAH SHYAM RAJ from the office of naib deewan, in the province of Bahar; and placing the immediate charge of it under the chief and council of Patna, until a plan could be formed for the future management of the business of it. The revenues of this province had been already settled for a term of years; but as those of Bengal and Orissa had been hitherto adjusted from year to year, and experience had shewn the evil consequences of so fluctuating a system, it was determined, on the 14th May 1772, to conclude a settlement of these provinces for a period of five years; and a committee of circuit, consisting of the president (Mr. HASTINGS,) and four other members of the government, was appointed "to go on a circuit through the province" of Bengal; except the districts near the presidency, the settlement of which was left to the remaining members of council "to form the bundobust, or settlement, at the sudder cutcherry of each district." The reasons assigned for this measure were, that, "the forms and usages peculiar to each district, and the present and improvable state of the lands, require a local inspection; they cannot be known, with any degree of certainty, by remote observations, or the interested and superficial scrutinies of the natives; a part of the administration itself, being on the spot, will run less hazard of being deceived in intelligence, or disappointed in their investigations; they will be better able to hear and redress any grievances, which the inhabitants may prefer to them, and to form such particular regulations as may be necessary for the exigencies of each district; or to super-add others to those which shall be generally and previously resolved on." It was, at the same time, resolved, "that as the Company have determined to stand forth as deewan, the servants employed in the management of the collections shall be henceforward styled "collectors," instead of "supervisors;" and "that a fixed deewan

* This proclamation is inserted in the 3d volume of Mr. E. COLEMAN's Digest, page 189.

shall be chosen and nominated by the Board, who shall be joined with the collector in the superintendency of the revenues."

Rules, which it is unnecessary to detail (as they were afterwards superseded by other regulations) were passed for the guidance of the collector and deewan;* and the following provisions were made for the security of the ryots. "That the farmer (or contractor with government) shall not receive larger rents from ryots than the stipulated amount of the pottahs on any pretence whatever. That no mhatoots, or assessments, under the name of mangan, hauree gundee, sood, or any other abwab or tax, shall be imposed upon the ryots. And that those articles of abwab, which are of late establishment, shall be carefully scrutinized, and at the discretion of the committee abolished, if they are found in their nature to be oppressive and pernicious."

It was further provided, that "all nuzzers and salamies, which are usually presented at the first interview, as marks of subjection and respect, be totally discontinued, as well to the superior servants of the Company and the collectors, as to the zemindars, farmers, and other officers:" and "that all zemindaree chokies (where transit duties on the internal commerce were exacted) shall be abolished, and none kept, but such as immediately depend on the government, subject to such regulations as shall be hereafter established."

THESE provisions were all excellent, and with others made at the same time, prove the early attention of the President in Council to the correction of abuses, and introduction of a regular system into the revenue department. The success of the quinquennial settlement, formed at this period, was however defeated by an unfortunate mistake in the fundamental principle of it, "to let the lands in farm." The reasons assigned by the President and Council, in their proceedings of the 14th May

them in superintending the revenues.

Rules passed for guidance of collectors and deewans.

And for security of ryot.

Nuzzer and salamies discontinued.

And zemindary chokies abolished.

These provisions excellent.

But success of quinquennial settlement defeated by a mistake in the fundamental principle of it, to let the lands in farm. Reasons assigned for this measure.

* See the whole of them in Mr. E. COLBROOKE's digest, vol. 3, page 190. And an explanation of each rule by the President and Council, in proceedings of 14th May 1772. Fifth report of secret committee, page 11.

1772, for this measure, were to the following effect:—"There is no doubt that the mode of letting the lands in farm is in every respect the most eligible. It is the most simple, and therefore the best adapted to a government, constituted like that of the Company, which cannot enter into the detail and minutiae of the collections. Any mode of agency, by which the rents might be received, is liable to uncertainty; to perplexed and inextricable accounts; to an infinity of little balances; and to embezzlements; in a word, both the interest of the state, and the property of the people must be at the mercy of the agents; nor is it an object of trivial consideration, that the business of the service, already so great, that much of it is unavoidably neglected, would be thereby rendered so voluminous, and the attention of the Board so divided, that nothing would be duly attended to; the current affairs would fall into irrecoverable arrears; the resolutions upon them be precipitate and desultory; the authority of the government set at nought; the power which it must necessarily delegate to others would be abused; and the most pernicious consequences ensue, from the impossibility of finding time to examine and correct them. That such would be the case, we with confidence affirm, since we already experience the existence of these evils, in part, from the great increase of affairs, which has devolved to the charge of this government; and the want of a reduced system, no less than from a want of immediate inspection and execution. This is a point well worth the attention of the Board, in every proposition that may come before them, as essentially respecting the constitution and general interests of the Company." This reasoning was forcible, and just, as applied to a system of agency; or as usually denominated in Bengal, a *khas* collection; but does not appear applicable to a settlement with temporary farmers, in preference to one with the hereditary landholders of the country. On the contrary, what was added by the President and Council, in support of long leases, loses much of its weight, if applied to farmers only, though for a term of years. "To let the lands for

The foregoing reasoning applicable to a system of agency.

But not to a settlement with farmers in preference to one with the landholders. The contrary inferred from further argument in support of long leases.

long

long leases is a necessary consequence of letting them. The farmer who holds his farm for one year only, having no interest in the next, takes what he can with the hand of rigour; which, even in the execution of legal claims, is often equivalent to violence. He is under the necessity of being rigid, and even cruel; for what is left in arrear after the expiration of his power, is at best a doubtful debt, if ever recoverable. He will be tempted to exceed the bounds of right, and to augment his income by irregular exactions, and by racking the tenants, for which pretences will not be wanting, where the farms pass annually from one hand to another. What should hinder him? He has nothing to lose by the desertion of the inhabitants, or the decay of cultivation. Some of the richest articles of tillage require a length of time to come to perfection. The ground must be manured, banked, watered, ploughed, and sowed, or planted. These operations are begun in one season, and cost a heavy expence, which is to be repaid by the crops of the succeeding year. What farmer will either give encouragement or assistance to a culture of which another is to reap the fruits? The discouragements which the tenants feel, from being transferred every year to new landlords, are a great objection to such short leases. They contribute to injure the cultivation, and dispeople the lands. They deprive the industrious ryot of those aids, known by the appellation of *tucavvee*, so essentially necessary to enable him to purchase cattle, seeds, and utensils of husbandry, which a more permanent farmer will ever find it his interest to supply, as a means of promoting an increased cultivation; and they of course prove an unsurmountable obstacle to bringing into an arable state the immense tracts of waste land which overspread this fertile country. The defects of short leases point out, as a necessary consequence, the opposite advantages of long farms. From these the farmer acquires a permanent interest in his lands; he will, for his own sake, lay out money in assisting his tenants; in improving lands, already cultivated; and in clearing and cultivating waste lands; he will not dare to injure the rents, nor encroach in one year on the profits of the next, because the

future loss, which must ensue from such a proceeding, will be his own. The tenants will grow familiarized to his authority; and a mutual attachment is, at least, more likely to proceed, from a long intercourse between them, especially when their interests are mutually blended, than from a new and transitory connection, which is ready to expire before it can grow into acquaintance; such are the arguments which have occurred to us in support of the two points, on which we have already determined, namely, to dispose of the lands to farm, and on long leases."

Five years settlement made, in some instances, with the landholders.

Observations of President and Council on this subject.

FROM the particulars of the five years settlement communicated to the Court of Directors in the letter of the President and Council, dated 3d November 1772, it appears, that it was made in some instances with the landholders, and the following general observations are stated on the subject. "Where it can be done with propriety, the entrusting the collections of the districts to the hereditary zemindars, would be a measure we should be very willing to adopt, as we believe that the people would be treated with more tenderness, the rents more improved, and the cultivation more likely to be encouraged. The zemindar is less liable to failure or deficiencies than the farmer, from the perpetual interest which the former hath in the country, and because his inheritance cannot be removed; and it could be improbable he would risk the loss of it by eloping from his district, which is too frequently practised by a farmer, when he is hard pressed for the payment of his balances; and is frequently predetermined when he receives his farm. With respect to the talookdarries and inconsiderable zemindarries, which formed a part of the huzzoor zilahs, or districts, which paid their rents immediately to the general cutcherry, at Moorshedabad, as well as many others of the same kind in different parts of Bengal, all arguments have been weighed, whether in favor of the just claim government has upon their lands for a revenue adequate to their real value, or of the zemindars and talookdars in support of their rights and privileges, grounded upon the possession of regular grants, a long series

series of family succession, and fair purchase. These being duly considered, there occurred to us only the two following modes which could be pursued in making their settlement. The first was, to let their lands to farm; to put the renters in entire possession and authority over them, obliging them to pay each zemindar or talookdar a certain allowance or per centage for the subsistence of himself and family. The second was, to settle with the zemindars themselves, on the footing of farmers, obliging them, first, to enter into all the conditions of a farmer's lease; secondly, to pay the same revenue that could be expected from farmers; thirdly, to give responsible securities; and fourthly, to admit a reserve in favor of government; for making, during the course of their actual lease, an exact hustabood (valuation from account) or a measurement of their possessions, in order to ascertain their true value at a future settlement, should the present accounts be found to be fallacious, or concealments suspected. We have allowed a degree of weight to the arguments of the zemindars and talookdars in favor of their plea of right, which by adopting the first mode of settlement, would doubtless be exposed to risk; for as the authority given to the farmers would reduce the present incumbents to the level of mere pensioners, and greatly weaken their claims as proprietors, so in the course of a few long leases, their rights and titles might, from the designs of the farmers to establish themselves in their estates; the death of the old inheritors, and the succession of minors, be involved in such obscurity, doubt, and controversy, as to deprive them totally of their inheritance. To expose the zemindars and talookdars to this risk, is neither consistent with our notions of equity, nor with your orders, which direct, "that we do not by any sudden change alter the constitution, nor deprive the zemindars, &c. of their ancient privileges and immunities." Another argument drawn from the conduct, naturally to be expected from the zemindars and talookdars, weighed strongly with us, and proves an objection to adopting the first mode. From a long continuance of the lands in their families, it is to be concluded, they have rivetted an

authority in the district; acquired an ascendancy over the minds of the ryots; and ingratiated their affections. From causes like these, if entire deprivation were to take place, there could not be expected less material effects, than all the evils of a divided authority, prejudice to the revenue, and desertion and desolation to the lands. Whereas, from continuing the lands under the management of those who have a natural and perpetual interest in their prosperity, provided their value is not of too great an amount, solid advantages may be expected to accrue. Every consideration then sways us, where it can be done with the prospect of the advantage before mentioned, to adopt the second mode in settling with the inferior zemindars and talookdars. First, an equivalent revenue may be thereby obtained, with security for its punctual payment; secondly, the converting them into farmers establishes the government's right of putting their lands on that footing, whenever they shall think proper; the awe of which must constantly operate to ensure their good behaviour and good management; thirdly, the clause of scrutiny, to which they are subjected, will also have the same tendency, at the same time that it may be strictly put in force where there is cause to suspect concealments, or a prospect presents of increase to the revenue. Agreeable to these ideas, the committee at Kishenagur exempted the several talooks in that district from the public sale, as the possessors engaged to abide by such a settlement as should be deemed equivalent and just; and, an exact valuation was accordingly made of their lands. It was however found that the terms offered by the zemindar of Kishenagur, were not equivalent to the expectations the committee had reason to entertain from the public auction of the separate farms, and the faith of government having been already engaged to such farmers, whose offers had been formerly accepted, for these reasons, joined with the well known subtle and faithless character of the zemindar, it was determined to reject his proposals, and to give the preference to the offers of the farmers, which were more advantageous to government."

THE settlement of Kishenagur (or Nuddea) made by the committee of circuit in 1772, being described (in the letter abovementioned) as "the model on which the settlement of the whole province would be formed;" it may be useful to add the following particulars relative to that district. "The committee first proceeded to Kishenagur, and there entered on the settlement of the district of Nuddea. The proposals which were there delivered to them were expressed in so vague and uncertain a manner, and differed so widely from each other in form, that it was impossible to make a comparison, or to ascertain the proportionable amount of each; and the few only that were intelligible contained very low and disadvantageous terms. The committee were therefore of opinion, that those offers should be rejected; and that the lands should be put up at public auction, though contrary to the original intention. To remove all obstacles that might present themselves from an uncertainty in the bidders, with respect to the more minute articles of the collections, and the grounds on which the settlement was to be established between the farmer and cultivator; the committee found it indispensably necessary, before the sale began, to form an entire new hustabood or explanation of the diverse and complex articles which were to compose the collections. These consisted of the *assul* or original ground-rent, and a variety of taxes called *aboabs*, which had been indiscriminately levied at different periods by the government; the zemindars; farmers; and even by the inferior collectors. After the committee had made a thorough investigation of the above articles of revenue, they proposed to deduct such as appeared most oppressive to the inhabitants; or of late establishment; at the same time reserving those which were of long standing, and had been cheerfully submitted to by the ryots; these being in fact a considerable part of the neat rents. Among the former were the duties, arbitrarily levied by the zemindars and farmers, upon all goods and necessaries of life, passing by water through the interior part of the country. The *bazee jumma*, or fines for petty crimes and misdemeanors, were also, agreeably to the hu-

Particulars relative to settlement of Nuddea stated to be the model which was followed in other districts.

mane and equitable spirit of your orders, totally abolished; as well as the *haldarry*, or tax upon marriage, which yielded a trifling revenue to government; was very injurious to the state; and could tend only to the discouragement and decrease of population; an object at all times of general importance; but more especially at this period, from the great loss of inhabitants which the country has sustained by the late famine, and the mortality which attended it. These several deductions in favor of the natives, although the immediate cause of decreasing the rent roll, will doubtless, in time, be productive of the most salutary effects; as they tend to encourage the manufactures and trade of the country; to retrieve the loss of the inhabitants; to free the people from vexatious prosecutions; and, by promoting the general ease of the country, virtually to support and improve its revenue. In order to secure the inhabitants in the quiet possession of the lands, whilst they hold them on terms of cultivation, and to prevent such exactions as aforementioned in future, the committee formed new *amulnamas* or leases; in which the claims upon the ryots were precisely and distinctly ascertained; and the farmers restricted from making any farther demands under the severest penalties. To this end, and to prevent the farmers from eluding this restriction they were ordered to grant new pottahs, or deed, to the ryots, the form of which was drawn out by the committee, and made public, specifying the conditions on which they were to hold their land; the separate heads or articles of the rents; and every encouragement was contained in them to cultivate the waste ground on a moderate and increasing rent. Another principal object with the committee was to reduce the charges of collection as low as possible; from a conviction that the retrenchment of improper and unnecessary expences opens a source of increase of revenue, the most eligible because the most consistent with the ease of the inhabitants. For this purpose we have formed an uniform and regular establishment for all the necessary charges to be incurred in the cutcherries of the several districts; under positive restrictions that they shall not be exceeded without
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our being previously advised. This we doubt not will prove a great saving to the Honorable Company, as it will be the effectual means of preventing in future all superfluous and unnecessary disbursements; and we think we may venture to promise, that this article will be duly attended to, as it will be almost the only care of the auditor to prevent every deviation from it in the accounts which are to pass his inspection. After these previous steps were resolved on, the lands of Kishenagur were put up to public auction, and a final settlement was made for five years on an accumulating increase.”

THE increase of revenue expected from this settlement was not realized; “the farmers having engaged for a higher revenue than the districts could afford;”^{*} and the hereditary landholders, from whom an improvement of the country might be naturally looked for under a permanent assessment, being, in general, excluded from the management of their estates. But not to pursue this subject, which has been here incidentally noticed, (as connected with the first arrangements of the Company’s deewany administration, after the resolution taken to conduct it through European agency,) I must now advert to the plan suggested by the committee of circuit, and adopted by the council, in the year 1772, for putting “the revenue in all its branches under the immediate control of the President and Council at the presidency;” and for carrying on the business of the khalsa (or exchequer) in detail. The proceedings of the committee of circuit, under date the 28th July 1772, state the following reasons for their concluding opinion, that the board of revenue at Moorsheedabad should be abolished; and that the court of the khalsa, with all the officers appertaining thereto, should be transferred to the presidency,

Increase of revenue expected from this settlement not realized.

Plan suggested by committee of circuit, for placing the revenues under immediate control of President and Council.

Reasons stated by committee for this arrangement; and for abolishing council of revenue at Moorsheedabad.

* Vide plan of settlement by Messrs. HASTINGS and BARWELL, dated 22d April 1775; and published by Mr. FRANCIS, with “original minutes of the Governor General and Council,” &c. See also what is said of the five years settlement of 1772, in the introduction to that publication; and the annexed statement of remissions and balances. This statement, and the plan abovenoticed, are also printed in the sixth report of the select committee of the House of Commons appointed in 1781, and its appendix No. 12.

and placed under the charge and direction of the President and Council. "In the consideration of the subject before us, the first point of enquiry is, whether the business of the dewannee shall be conducted, as it hath hitherto been, in part by the agency of the Company's inferior servants, constituting a board of revenue at Moorshedabad, or be put under the immediate controul of the members of their administration? We shall not hesitate to determine in favour of the latter. The revenue is, beyond all question, the first object of government; that on which all the rest depend; and to which every other should be made subservient. There must be a controlling power in this department; it cannot be partially delegated, but, in whatever hands it is lodged, it must be absolute and independent. But the superior council, which is constitutionally the controlling power, having no cognizance nor connection with the inferior department, can have no knowledge of what is transacted, but from the information of the Board of Revenue; which, however fair and impartial, cannot possibly convey that intimate intelligence, which arises from daily practice and a direct communication with the servants of the revenue. Without such an intelligence, what authority can the administration possess in the affairs of the collections? Or, with what confidence can they issue any orders for their improvement, impressed as they must be, with the consciousness they are but imperfect judges of matters on which they dictate to others better informed? In effect, all authority and command will rest with the board of revenue; all appeals for justice from the provincial court must, in regular course, be made to the council of revenue; and from them to the President and Council in Calcutta. The common people, unused to such a multiplied process of judicature, impatient of delays, and taught to look up to the first department of government for the redress of their wrongs, will be continually violating the precision of our rules, and running to the presidency on every occasion of complaint. If their causes have not passed through the second court, they must be sent back to Moorshedabad; and from thence the litigious will come with appeals to the presidency.

dency. Thus an inhabitant of Anwarpoor, if he thinks himself aggrieved, must make his complaint to the cutchery at Kishennagur. Having gone through all the due forms and necessary delays of that court, if he is dissatisfied with the decree, he will carry his appeal to the city. There too he must go through the same forms, the same attendance, to obtain a second hearing, and a second decree. This also not proving satisfactory, his last resource will be in the government of Calcutta, which will put a final period to his cause. Thus, after the loss of many months, which might have been usefully bestowed both to himself and the state, in the cultivation of his land, and the care of his family; after having made a journey of more than two hundred miles, and spent perhaps more than the amount of his claim in suing for the recovery of it; he will most probably be cast a third time, for want of evidence; as it is not probable he will be able to persuade any persons, uninterested in the success of his suit, to go through the same tedious prosecution of it with him; and as unlikely (by any mode hitherto discovered) that he will make good his right without it. Such would be the case of the poor plaintiff, supposing that justice were regularly administered in these forms; but we know that hitherto it hath been quite otherwise; and that they have been productive of no other effect, but to assemble multitudes of discontented suppliants, from all quarters of the province, who crowd our streets and harrass us with clamours for redress; and as often with as loud reproaches for being denied it. As yet no better expedient has been found for relieving them; than to refer them back to the collectors, with injunctions to enter into a fresh examination of their complaints, and to decide finally upon them; an expedient which few submit to, till convinced by a long fruitless attendance that no other resource is left them. But few are the instances of redress obtained by this way; and much fewer of the letters even being delivered; as the timid sufferers rather chuse to put up with all their losses, than expose themselves to the collector or his muttasuddies, by exhibiting the proofs of their appeal from his justice,

or of their complaints against his person. We do not pretend to hope for a total removal of these evils, by any mode which is now offered to our choice; but we are sure they will be less frequent and less grievous, if the appeals are made at once to the Supreme Court, without any intermediate delays. For all these reasons, the committee are of opinion, that the revenue in all its branches be put under the immediate controul of the President and Council at the presidency. Such a change, independent of the advantages which we hope to derive from it, in establishing a more regular plan of business, and acquiring a practical knowledge and command of the collections, will be productive of many other important consequences. The numerous officers and retainers of the khalsa, and of the new courts of judicature, with all their families, domestics, and dependants, will increase the demand for the necessaries and conveniences of life, and of course require a number of tradesmen, artisans, and market people, to supply it. This vast influx of people will be drawn to Calcutta, and with it a great increase of wealth. The consequence of the presidency will be much improved with its population; as it will lessen that of Moorshedabad; which will no longer remain the capital of the province; having nothing to support it but the presence of the Nabob, and a few families of consideration; who, possessing valuable property on the spot, will of course chuse to continue there. The consequence of the Nabob himself will sink in proportion, and the eyes of the people will be turned to Calcutta, as the center of government, and to the Company as their Sovereign. Their manners, by a constant intercourse, will by degrees assimilate with ours; and breed a kind of new relation and attachment to us. This too will open a new source of trade, advantageous to the mother country, by the consumption of its most valuable manufactures. Nor is this the mere suggestion of fancy, since we already see, that in their habits, in their equipages, in the furniture of their houses, in their buildings, and in short in every thing where their religion and the difference of climate will permit it, they begin

begin to affect the fashions of the English. In enumerating the defects of the present system, we omitted to mention the insecurity of the public treasury, and the public records, at Moorshedabad; an open and straggling town, which a few desperate decoits might enter with ease, and plunder at discretion, before any force could be called to repel them. An event of this kind is not the less improbable from its not having yet come to pass. The town of Calcutta is not only sheltered against such dangers, but the fort offers a most complete security, both for public and private property, under all circumstances." The measure thus recommended by the committee of circuit received the unanimous concurrence of the other Members of Council; and was adopted accordingly.*

Recommendation of committee adopted by council.

On the 20th August 1772, the committee of circuit submitted a detailed plan for conducting the business of the khalsa, which was approved by the council on the 29th of the same month. It will be sufficient to enter, in this place, the following extract from the proceedings of the committee, as explanatory of the general arrangement proposed by them. "The dewany may be considered as composed of two branches. 1st, The collection of the revenue: 2d, The administration of justice in civil cases. For regulating the latter, a separate plan has been framed. The former having been subdivided into collectorships, under the agency of the Company's servants, the controul and superintendence, to be exercised by the President and Council, will consist chiefly in issuing the necessary orders to those collectors; in inspecting, auditing, and passing their accounts; and in occasionally visiting their districts for the purpose of making local investigations and enquiries into the state of them, and into the collector's discharge of their duty to the public, and their employers. The committee are of opinion, that this weighty and

Detailed plan for conducting business of the khalsa; proposed by the committee of circuit.

* See letter of President and Council, dated 3d November 1772; and before referred

important trust can be no where so properly lodged, as in the body of the council at large. The honorable the Court of Directors have indeed recommended the mode of committees; but nothing being so essential to the success of the revenue system, as expedition in deciding upon all points of reference, and in issuing the consequent orders; and a committee being only authorized to prepare matter for the sanction and approbation of the council at large, must necessarily occasion delay in this particular; this committee think it will always be for the interest of the Company to profit from the counsel and services of every member of their administration, in so capital an object of their affairs. For conducting the general controul, therefore, of the dewanny, and for managing the detail of the business of the khalsa, the following regulations are proposed :—That the whole council shall compose a board of revenue, who shall assemble two fixed days in each week, or oftener if occasion requires, for transacting the business of this department. That the whole council shall also be stiled *auditors of the dewanny*; and that it shall be the duty of one of the members, in weekly rotation, to report upon all accounts received from the collectors, in which he shall check all unauthorised charges, and remark upon all excesses of the annual estimates in those charges which are authorised. That the auditor of the week shall complete the report upon all accounts received within his week; and that, on the last thursday of every month, there shall be a meeting of the board, for the sole purpose of passing all the accounts of the month preceding. That as the President and Council have thought proper to establish provincial dewans, to act jointly with the collectors in all the districts, there shall be a principal mutteddee appointed to superintend the conduct of those dewans; to receive from them the accounts in the *Bengal* language; and to issue to them a counterpart of the orders, which the board of revenue shall, from time to time, expedite to the collectors. That this officer shall be stiled the *Roy Royan*, and that he shall attend at the meetings of the board of revenue, to make reports, to answer to all enquiries, and to receive occasional

sional instructions. That the business shall consist, in receiving and examining all the accounts transmitted in the Bengal language; in comparing the remittances of the revenue with the chelans, or invoices; in directing the payments to be made into the grand treasury; in realizing the collections of the farmers, who may avail themselves of the privilege of paying their rents at Calcutta; in preparing all grants and sunnuds, and in expediting all perwannas to the provincial dewans; and shall be conducted by a member of the council in monthly rotation, and the Roy Royan. That on all these points, and such others as may occur in the detail of the business, the Roy Royan shall report daily to the honorable the President, and receive his instructions. That he shall next wait upon the superintending member of the khalsa, and report to him; intimating, at the same time, such instructions as he may have received from the president; that he may jointly attend to their being carried into execution; as well as such other business as the superintending member shall think proper to direct; and that the superintending member and the Roy Royan shall make their joint report, of every thing that shall be transacted in this detail, at each meeting of the board of revenue. That to enable the Roy Royan to discharge that part of his duty which impowers him to transmit a counterpart of the board's orders to the dewans, a Company's convenanted servant, with one or more assistants, shall be appointed *translator to the khalsa*, whose duty it shall be to attend every day, on the breaking up of the board of revenue, and translate, into the Persian language, the substance of the orders issued to the collectors; with such translations, the translator shall wait upon the superintending member of the khalsa; who will take care that the Roy Royan expedite his orders to the dewans, conformably thereto, under the public seal of the dewanee, reserving regular copies. That it shall further be the duty of the translator of the khalsa to translate, and enter in a book, all the letters received by the Roy Royan; which book shall be laid before the board every day of their meeting.

That

That a Company's covenanted servant (with a competent number of assistants) be appointed to the office of accountant general of the dewanee, the detail of whose duty shall be as follows."—It is unnecessary to specify this detail; or the particular rules which are added, for the offices of Roy Royan, moonshy, and karkoon, (native accountant;) the "Sherishta amaut and mauzoolie, or office of inspection," to examine and adjust accounts, especially those of dismissed officers and contractors; the "Zemeen noveesec, or register office," in which all grants for land, and transfers of landed property, were to be registered; the "Huzoor Tehseel office" where the revenues payable at the presidency were to be received by the naib, or deputy of the Roy Royan; the "Khazana, or treasury;" the "nazir's office, including peons and other servants employed in issuing summonses and other process; and the "office of canoongo," which is stated to be "of royal institution, of long standing, and in many places hereditary." It is added that this office "is frequently executed by a deputy, though the emoluments are enjoyed by principals, who are generally absentees. In some districts it has been long abolished. The canoongoes have usually had the care of the sudder and mofussil records; and all papers attested by the canoongoes are received as authentic and decisive in disputes relative to lands, their boundaries, or property of that nature." This description appears to have been taken from the proceedings of the Moorshedabad council of revenue.* The committee at the same time expressed their own opinion of the canoongoes, "that their utility is almost totally suppressed, from the change which has taken place in the revenue system. Out of tenderness, however, to the antient form of government, and deference to the grants which they hold for their office from the court of Dehly, the committee think the head

Office of canoongo described.

With opinion of the committee respecting its continuance.

* See proceedings of committee of circuit, and note referred to in them, page 23 of fifth report of committee of secrecy, 1772. The whole of the regulations proposed by the committee, on the 28th August 1772, are also printed in the 3d volume of Mr. E. COLEBROOKE'S digest, page 194.

canoongoes may be continued, either receiving their present re-
 sooms, or whatever may be considered as an adequate pension ;
 but that all the dues, allotted for the support of their officers in
 the districts, may be attached ; and those officers inrolled among
 the monthly servants of each cutchery. Thus the government
 will still reap the benefit of their knowledge and experience in
 carrying on the business, whilst a considerable saving will be pro-
 duced from the resumption of the dues they have hitherto receiv-
 ed."

THE system of collection and superintendence established in
 1772 was of short duration. In consequence of instructions from
 the Court of Directors for the future management of the revenues
 at the presidency, and for the removal of the local collectors, a
 new plan, immediate and prospective, was formed by the Gover-
 nor and Council in November 1773 ; the principles of which
 will be seen in the following extract from the proceedings of
 Council, held on the 23d of that month. " The board having,
 at several meetings since the receipt of the *Harcourt's* advices,
 debated on the various means which occurred to them for car-
 rying into execution the intentions of the Honorable Court of
 Directors, for the future controul and management of the revenue,
 and for the removal of the collectors from their stations ; and hav-
 ing maturely considered and weighed all the consequences which
 may attend every measure that may be adopted ; are of opinion,
 that the immediate removal of the collectors, or the establish-
 ment of any consistent and permanent system, without such pre-
 paratory measures as might prevent the bad consequences of too
 sudden a change, and gradually introduce a more perfect form
 of superintendency, would be hazardous to the collections,
 and bring at once a greater weight of business on the mem-
 bers of the superior administration than they could possibly
 support. On these grounds they propose the following plan
 for a future establishment, to be adopted and compleated
 by such means as experience shall furnish, and the final orders

New plan for
 managing the re-
 venues, imme-
 diate and pros-
 pective, form-
 ed in Novem-
 ber 1773.

Proceedings of
 Governor and
 Council on the
 subject.

of the Honorable Company shall allow. 1st, That the districts which form the present collectorships shall remain, with such variations as shall render them more easy of controul, and more subservient to the general system. 2d, That each district be superintended by a dewan or aumil, except such as have been let entire to the zemindars, or responsible farmers, who shall in such case be invested with that authority. 3d, That a *committee of revenue* be formed at the presidency, which shall consist of two members of the board, and three senior servants below council, for conducting the current business of the collections, in the manner following. 4th, The committee shall meet daily; they shall form resolutions and orders for the current or ordinary business of the districts; and prepare, weekly or monthly, a separate state of each district, an account of the demands, receipts, and balances of each district, and a report of such extraordinary occurrences, claims, and proposals, as may require the orders of the superior council; which are to be laid before them in their revenue department. 5th, The dewan shall correspond with the president of the committee and the Roy Royan, and send their bills, chelans, and accounts, to them. These shall be registered in the proper offices of the khalsa, and such translations and abstracts made of them as shall be necessary for the inspection of the committee. 6th, All orders to the dewans shall be translated, and written in the name of the president of the committee and the Roy Royan, to be sealed with the seal of the khalsa, and signed by them. 7th, Occasional commissioners or inspectors shall be deputed to visit such of the districts as may require a local investigation. These shall be chosen from the Company's covenanted servants, not by seniority, but by the free election of the board; they shall be men qualified for this trust by a knowledge of the Persian or Indostan language; and by a moderation of temper. An objection made by a single member of the board to any person proposed, as wanting these requisites, shall be a sufficient bar to his appointment, without proofs being required to support it. The

commis-

commissioners shall receive an allowance of 1,500 rupees per month for their trouble, and for their expences during the deputation; they shall not be allowed to take with them their private banians, nor any servants or dependents, without express leave, in writing, of the board; they shall be forbid, on pain of suspension from the service, to lend or borrow money; to take any concern in farms, talooks, or securities; or to purchase or sell, or contract to purchase or sell, any article whatever in the district; nor shall they suffer any of their servants or dependents to do either. 8th, Strict orders shall be given, in writing, to every officer commanding the sepoy stations, forbidding them to detach any sepoys, either singly, or in parties, for any purpose whatever, beyond their quarters, except when required on military service; to punish or confine any person not appertaining to his command; to lend or borrow money; to take any concern in farms, talooks, or securities; to purchase or sell, or contract to purchase or sell, any article whatever, either in the district in which he resides, or in any other; or to have any dealing in any kind whatever with any dewan, zemindar, farmer, ryot, or other dependent, or officer of the revenue. The same orders shall be published, to be observed by the other officers, both European and native, of the battalion, and to all the sepoys and followers of it. It shall be declared, that the commanding officer shall be responsible for any public breach of these orders by any persons whatever under his command; and the Governor shall have the power of recalling them, without assigning a reason either to them or to the board. 9, The officers of the fowzdarry adawluts shall be forbid to hold farms or other offices in the mofussil, they shall be obliged to reside, on pain of forfeiting their employments; and it shall be declared criminal in any person to officiate in the courts of adawlut in the capacity of munsifs or gomastahs, for principals non-resident. 10th, All complaints of the ryots or others against the dewans, farmers, zemindars, or other public officers of the revenue, shall be received and decided by the committee, or by persons expressly appointed by them for that purpose."

Substance of
temporary
arrangement
which was car-
ried into effect.

FOR the means of carrying the above plan into execution, in such a manner and at such times as might be found most convenient for effecting the purposes intended by it, "and preventing the ill consequences to which the collections would be exposed by an improvident and precipitate innovation," an immediate temporary arrangement was, at the same time, resolved upon, and carried into effect; which was, in substance, as follows. The three provinces were distributed into six divisions, and each placed under the superintendence of a provincial council, composed of a chief and four senior servants of the Company, (with a secretary, Persian translator, accountant, and assistants;) except the Calcutta division, which was to be superintended by a committee of revenue, consisting of two members of council, and three senior servants; with a secretary, translator, accountant, and assistants. The Roy Royan, assisted by one of his naibs, was to act as dewan to the committee at the presidency; and a dewan, chosen by the government, to be appointed with each of the provincial councils in the other divisions. The committee, and provincial councils, were to correspond with the council of revenue, viz. the Governor and Council, in the revenue department; and the dewans with the Roy Royan; and to act under their orders respectively. The several collectors, who had been stationed in different parts of the country, were to be recalled, as soon as they had delivered over charge to the provincial councils and committee; and had adjusted their accounts. The collections of the interior districts in each division, which were "not the seat of the provincial councils, (or committee,) to be managed by naibs, at such stations as they may judge necessary." The naibs to receive their orders from the provincial councils (or committee;) and such orders, after being approved by a majority of the members, to be issued under the public seal of the division, with the signature of the chief and the dewan. The naibs were further authorized "to hold courts of dewany adawlut according to the regulations (viz. those passed on the 21st

August 1772,)* but appeals, in all cases, were allowed from their decisions, to the provincial sudder adawlut of the division; to be superintended by the members of the provincial councils, and committee of revenue (except the members of government) in rotation; subject to a revision by the members at large; and in causes exceeding a thousand rupees, to an appeal to the Sudder Dewanny Adawlut at Calcutta. Complaints against the naibs, and other officers of government, as well as against the landholders and farmers, "relative to their conduct in the revenue," were also made cognizable by the provincial councils and committee of revenue; with an appeal from their decisions to the superior council of revenue at the presidency. To these provisions were added the 8th and 9th articles of the intended permanent plan, above cited; and besides particular restrictions upon the members of the superior council, from every kind of trade, except diamonds for remittances to Europe, and goods purchased in Calcutta, the whole of the members of the provincial councils, and their assistants, with all other covenanted servants of the Company, residing in the interior of the country, were restricted "from making advances for grain, or any such articles as contribute to the subsistence of the natives, and cannot be dealt in without oppression to them."

Substance of temporary arrangement which was carried into effect.

It being the professed intention of the Governor and Council to render the temporary arrangement adopted at this period subservient to that proposed "for a future and perpetual system," it was declared to be "their design; that whenever the accounts and arrangements of any one division shall be so regulated and completed, as to enable them to bring the controul down to the presidency, the provincial council shall be withdrawn, and either continue to conduct the business of the division at the presidency, or transfer it at once to the committee." In explanation of this intention, it was added, "by such progressive method, an easy

The arrangement of provincial councils declared subservient to a future permanent system, to be gradually introduced.

* They are printed at length, in the 3d volume of COLEBROOKE'S digest, page 1 to 8.

change may be effected, without the smallest hazard of any loss or embarrassment; at the same time that a provision is made for the admission of such other improvements as the Honorable Court of Directors may enjoin, and which would either be precluded by any other mode, or the new measures which may have been established, must be abolished to make room for them; which would occasion fresh perplexities in the revenue, and fill the minds of the people with apprehensions of perpetual changes. The great weight of affairs, with which the administration is already loaded, will not admit of the immediate introduction of the proposed system; and it is possible that it may still remain a charge too great for one body to manage, even with all the regularity which time and experience can give it. But if it should be found so, the collections will be better conducted at the presidency, by the same provincial councils, under the present inspection of the superior council, than under the same controul within the districts, because of the dangerous abuse which may be made of the personal influence of the members composing those provincial councils, and resident within their divisions; neither will their business suffer by the distance of their situation, except only in the case of extraordinary investigations, which may require the presence of individuals, or the inspection of mofussil papers."

Judicial powers of provincial councils and committee of revenue altered by Regulations of 1780, for administration of justice.

And collectors or other local officer continued in some districts.

THE judicial powers vested in the provincial councils and committee of revenue by the temporary plan of November 1773; (carried into effect in the succeeding year) were altered by the regulations for the administration of justice in the year 1780.* And it was found necessary; in several districts, to continue the local agency of a collector, or other European public officer, subordinate to the council of the division, whose jurisdiction was too extensive for more than a general superintendence and control; especially in places situated at a distance from their place of residence. A local commission, consisting of three covenanted ser-

* See page 29 of first volume of this analysis; and the regulations of 28th March and 3d November 1780, at large, in COLEBROOK'S Digest, volume III, pages 14 and 22.

vants of the Company, with an establishment of ameens, and other native officers, was also employed in 1776, to obtain materials for the settlement, to succeed that formed in 1772.* But the general system of managing and collecting the revenues, established in 1773, remained in force, with some variations, till the 23th February 1781; when the provincial councils were dissolved; and their charge and powers transferred to a committee of revenue, at the Presidency, consisting of four covenanted servants of the Company, who by the resolutions of the Governor General and Council, on the above date, were “entrusted with the charge and administration of all the public revenues of the provinces; and invested, in the fullest manner, with all the powers and authority, under the controul of the Governor General and Council,” which the latter themselves possessed, and might not exclusively reserve. The chiefs only of the provincial councils were directed to remain in the temporary charge of their respective divisions, and the collectors of separate districts in their respective stations, under the authority of the committee, until they should be recalled by the orders of the Governor General and Council. The office of “superintendent of the khalsa records;” which had succeeded that of superintendent of the khalsa” (established in 1772, and discontinued under the arrangement made in 1773) was also abolished; and the “office of the khalsa, with all its dependent offices, and all the functions and powers appertaining to it, transferred to the committee of revenue;” who were directed “to re-instate the canoongoes in the complete charge and possession of all the functions and powers which constitutionally appertain to their office;” to “examine and report the state of the other offices dependent in the khalsa;” and to “propose such an alteration

But system of provincial councils remained in force till February 1781. When they were dissolved and their charge transferred to a new committee of revenue at the presidency.

Powers and duties of this committee.

Instructions to committee from governor general and council.

* The minute of the Governor General proposing this commission, with a letter from the commissioners, Messrs. ANDERSON, CROFTS, and BOGLE, and the instructions issued to the ameens, are printed in the third volume of COLLEBROOKE's Digest, page 206. They are also included, with the minutes of council recorded on the subject, in the Appendix to the sixth report of the select committee, 1781; and in the minutes published by Mr. FRANCIS in 1782.

Further rules
described in
guidance of
committee.

as shall appear necessary for making them answerable to the purposes of their institution, and bringing them under the controul and daily inspection of the committee." It was further prescribed:—"1. That the committee shall meet three days in every week, or as much oftener as their business shall require; that they shall form resolutions and orders for the current or ordinary business of their department, and report to the board, (*viz.* the Governor General and Council) as they shall happen, such extraordinary occurrences, claims, and proposals, as may require the special orders of the board; that they shall keep regular minutes of their proceedings in the customary form, and do no act collectively, which shall not be recorded therein; that they shall lay a fair copy of each month's proceeding, together with a summary report of the same, the jamma-wausil-baukee, or account of demands, receipts, and balances, of each division or district, and general and particular accounts of receipts and disbursements, and treasury accounts of each month, before the board, on the fifteenth of the ensuing month. 2. That if the members of the committee differ in opinion upon any question before them, the majority, or the casting voice of the president or senior member present, shall decide, and form the resolution of the whole; it is not expected that every dissentient opinion shall be recorded; but where the case shall be deemed of such importance as to require it, it shall be immediately referred, together with so much of the proceedings as have an immediate relation to it, to the board; but the determination of the majority of the committee shall not therefore be stayed, unless it shall be so agreed by the majority. 3. That the president of the committee do issue, of his own authority, during the intervals of their meetings, such occasional or subsidiary orders as shall be necessary for carrying into execution any existing orders of the committee, or for personal attendance, or for preparing materials for the inspection of the committee, or for any such other purposes as the committee shall judge it advisable to commit to his separate charge as their executive member; and all the officers, servants, and dependents,

dependents, shall be required and enjoined to yield implicit obedience to all orders which they shall receive from him, subject of course to the superior authority of the committee: that the members of the committee shall not possess or exercise individually the same power, except in cases in which, for the greater dispatch of business, they shall agree to divide it into separate and occasional portions between them, or to assign any special charge to any member separately."

It would occupy too much room in this introduction to detail the whole of the regulations which were proposed by the committee, and approved by government, for conducting the business entrusted to them.* It will be sufficient to exhibit the following extract from them:—"The committee reverting to the original regulations for conducting the business of the revenue department at the presidency, and that of the khalsa, observe, that the principles upon which the system was then established, were founded with a view to the establishment of some future committee of revenue, similar to that which has now taken place. That the duty of the present committee is there also defined to consist chiefly in issuing the necessary orders to the collectors; in inspecting, auditing, and passing their accounts; in deciding upon all points of reference; and in issuing the necessary orders; subject to the approbation and controul of the Supreme Council. That for carrying into execution these several duties, the former establishment of the khalsa, with some few variations, will now also be requisite. That it appears to the committee, that as the Roy Royan was originally dependent on the Board of Revenue, and directed to attend there, he should also be now considered as an officer under the Supreme Council. That, in this capacity, his duty will still consist in countersigning all such Persian papers and orders as are executed by the Supreme Council, or by the Honourable the Governor General. That he may be the better

Regulations proposed by the committee, and approved by government.

* They are printed, at length, in the third volume of Colebrooke's Digest, page 216; as well in as the Appendix No. 3. to the sixth report of the select committee.

enabled to carry into execution such orders as he shall receive from the Supreme Council or Governor General, he be still allowed to call upon the native officers under the committee, for copies of such papers, in the different serishtas, as he may require. That as the Supreme Council have thought proper to appoint a dewan to the committee, it will be the duty of the dewan to countersign the papers executed by them, and carry into execution such orders as are given to him, and such duties as appertain to his office; to be present at the meetings of the committee, and sit with them to receive their orders; and to attend the president occasionally, and report such matters to him as require his orders; which he is to obey. That the Roy Royan, therefore, shall not be allowed to interfere in the business transacted by the dewan of the committee, as such interference would occasion frequent disputes and great delay in the business, which each would ascribe to the other. That the duty formerly vested in the Roy Royan, of superintending the conduct of the provincial dewans, of receiving accounts from them in the Bengal language, and of issuing counterparts of the orders which the Board of Revenue should expedite to the collectors, will now become unnecessary. That with respect to such provincial dewans as remain in the districts where collectors are stationed, they should continue to act under the directions of those collectors, to whom the committee will expedite their orders. That with respect to such provincial dewans and naibs as reside in districts where there are no collectors, the committee will also issue their orders to them through their President; and such orders are to be countersigned by the dewan of the committee. That the collectors be accordingly directed to address the Persian and Bengal copies, of such accounts as they shall send to the committee, to the dewan of the committee; and that orders be issued to the provincial dewans and naibs, who reside in districts where there are no collectors, to adopt the same mode of address. That the executive business, appertaining to the collection of the rents of the huzzoory mehals, will principally rest with the
president

president of the committee and dewan, subject to the orders of the committee. That a separate office for the huzzoor tehseel, as mentioned in the old regulations of the khalsa, will now become necessary, as the duties of this office will be performed by the dewan and the officers under him. That with respect to the canongoe's office, it will become the subject of future consideration when the committee proceed to carry into execution the orders of the Honourable Board for the establishment of the canongoes."

THE institution of the committee of revenue, in 1781, with the powers and functions above stated, was expressly declared to have in view the same design, as that which regulated the permanent system contemplated in 1773, viz. "That all the collections of the provinces should be brought down to the presidency; and be there administered by a committee of the most able and experienced of the covenanted servants of the Company, under the immediate inspection of, and with the opportunity of instant reference for instruction to, the Governor General and Council." In a letter to the Court of Directors, dated 5th May 1781, the Governor General and Council, after communicating the new constitution of the committee of Revenue, further expressed their sentiments of it in the following terms. "We cannot close our advices of the proceedings of this department, without making some observations upon the nature and design of its institution; which its apparent novelty, the liberal endowments annexed to it, and the unavoidable severity with which a change so extensive and important in the constitution of the principal administration of your affairs, has fallen on the interests of individuals, may render necessary, to obviate any possible misconception of it to our prejudice in your opinions. We shall not be surprized if we find it imputed to the love of Innovation; a charge which has been frequently laid against your administration of these provinces; and which we conceive to be unavoidable in a great government which, like this, has been suffered so long to exist on expedients, in default of a fixed constitution. In such a state, every change of influence must be productive

Professed design of the arrangement made in 1781, the same as proposed by the plan of 1773.

Sentiments of Governor General and Council, this effect communicated in letter to Court of Directors.

productive of a change of measures, whether dictated by caprice, self interest, or integrity; and the influence of the latter must yet operate to the introduction of many more and greater improvements, before this government can attain that degree of perfection, or your property in it that permanent value, of which we think it capable. Though such is our opinion of innovations in general, and we mention it only that we may not be supposed to condemn the principle in other instances by the disavowal of it in one; yet we must declare, that in no act of our administration have we observed a greater consistency, or a closer attention to fixed principles, than in this. The system, which we have thus attempted to establish, was first devised by the president and council of this presidency in the year 1773, and made a part of the same resolution, which distributed the charge of the collections among the late provincial councils. These establishments were declaredly formed for the purpose of introducing the former; and were intended to be gradually withdrawn, as experience might render them no longer necessary. The committee itself was immediately formed; and to give it the greater dignity, two members of the superior council were appointed to superintend it; although it then differed only in the name from the other provincial councils, and its destined functions were reserved for a future arrangement. Why this design failed in its effects, and the provincial councils were permitted to remain during so long a course as seven years, in contradiction of their professed institution, it is unnecessary to mention. It is sufficient to say, that the necessity for reverting to the original system, if its principles were just, was never so great as it was at the time in which it took place; and in which the preservation of the Company's interests, in every part of India, depended upon the resources of this. We may add, that had the same necessity existed at any preceding time, the change could not have been effected. We have now resolved to carry it into execution; and shall be content to leave the proofs of its utility to a short trial; but it will rest with your wisdom to give it permanency, by correcting its defects; and by obtaining the sanction of Parliament

liament for its duration, under the form which shall be ultimately given to it."

But the impracticability of managing, in detail, at the presidency, without the assistance of responsible local agents, the whole of the revenues of the three provinces, was evinced by the plan of settlement formed by the committee of revenue immediately after their appointment, and submitted by them to the Governor General and Council on the 29th March 1781. In this letter, after observing that, "the mode which appears to the committee the most convenient and secure for the government, and the best for the ryots and the country, is, in general, to leave the lands with the zemindars, making the settlement with them;" they add, "several divisions contain a number of petty talookdars, with whom a settlement has been made by the government itself: Such divisions, and particularly such parts of them as are either now immediately under the committee, or are to be put under them, should be let to farmers; as the committee would otherwise be greatly embarrassed and impeded in their general business, by being obliged to enter into the detail of a number of petty farmers and talookdars." In considering by whom the settlement should be made, they further remark that although "the committee should execute this task themselves in as many cases as they can, in some perhaps it would be most expedient to leave the detail of this with the collector, or other officer of government." And the following observations were written by one of the ablest members of the committee (Mr. SHORE) in the year 1782. "In the actual collection of the revenues nothing is more necessary than to give immediate attention to all complaints, which are preferred daily without number, and dispatch them in a summary manner. This cannot be done where the control is remote. In every purgunnah throughout Bengal there are some distinct usages, which cannot be clearly known at a distance. Yet in all complaints of oppression, or extortion, these must be known before a decision can be pronounced. But to learn at Cal-

But the proposed object, of managing the revenues, in detail, at the presidency, without local agency, found impracticable.

cutta the particular customs of a district of Rajeshahy, or Dacca, is almost impossible; and considering the channels through which an explanation must pass, and through which the complaint is made, any colouring may be given to it, and oppression and extortion, to the ruin of a district, may be practised with impunity. This is a continual source of embarrassment to the committee of revenue in Calcutta. One object of their institution is to bring the revenues, without agency, to the presidency; and all local control is removed from over the renters who pay at Calcutta, or what is called *huzzoory*. When complaints are made against them, it is almost impossible to discriminate truth from falsehood; and to prevent a failure in the revenues, it is found necessary, in all doubtful cases, to support the farmer: a circumstance which may confirm the most cruel acts of oppression. The real state of any district cannot be known by the committee. A farmer or zemindar may plead that an inundation has ruined him; or that his country is a desert from want of rain: an aumeen is sent to examine the complaint; he returns with an exaggerated account of losses, proved in volumes of intricate accounts, which the committee have no time to read; and for which the aumeen is well paid. Possibly however the whole account is false. Suppose no aumeen is employed, and the renter is held to the tenor of his engagements, the loss, if real, must occasion his ruin, unless his assessment is very moderate indeed. I may venture to pronounce that the real state of the districts is now less known, and the revenues less understood, than in 1774. Since the natives have had the disposal of accounts, since they have been introduced as agents, and trusted with authority, intricacy and confusion have taken place. The records and accounts, which have been compiled, are numerous: yet when any particular account is wanted, it cannot be found. It is the business of all, from the Ryot to the dewan, to conceal and deceive. The simplest matters of fact are designedly covered with a veil, through which no human understanding can penetrate. With respect to the present committee of revenue, it is morally impossible for them to execute the business they are intrusted

trusted with. They are vested with a general control, and they have an executive authority larger than ever was before given to any Board, or body of men. They may and must get through the business; but to pretend to assert that they really execute it, would be folly and falsehood. The grand object of the natives is to acquire independent control; and for many years they have pursued this with wonderful art. The farmers and zemindars under the committee prosecute the same plan, and have ready objections to any thing that has the least appearance of restriction. All control removed, they can plunder as they please. The committee must have a dewan; or executive officer, call him what you please. This man, in fact, has all the revenues paid at the presidency at his disposal; and can, if he has any abilities, bring all the renters under contribution. It is little advantage to restrain the committee themselves from bribery or corruption, when their executive officer has the power of practising both undetected. To display the arts employed by a native on such occasions, would fill a volume. He discovers the secret resources of the zemindars and renters; their enemies and competitors; and by the engines of hope and fear, raised upon these foundations, he can work them to his purposes. The committee, with the best intentions, best abilities, and steadiest application, must, after all, be a tool in the hands of their dewan. The same objections, that are made against the present committee of revenue, may be applied to the system of provincial councils. It is sufficient to say of them that the universal opinion, strengthened by experience, has pronounced the system fundamentally wrong; and unapplicable to any good purposes*."

THE justice of the foregoing remarks was acknowledged by subsequent orders of the government and Court of Directors; in fact, experience proved the necessity of employing several collectors, besides the chiefs of the provincial councils, after these establish-

Several collectors, besides chiefs of provincial councils, employed.

* Extracted from Mr. SHORE's remarks on the administration of justice and collection of the revenue in Bengal, written in 1782; and recorded by Sir J. MACPHERSON in 1785. Printed in *India Papers*. Vol. VI.

And huzzoory mehals ordered to be placed under collectors, in 1786.

ments were abolished; and although the number of collectors, as well as of the civil courts of justice, was reduced, on a principal of economy, at the end of 1784, and commencement of 1785*, the committee of revenue were instructed by the Governor General and Council, on the 7th April 1786, in the following terms: "It is our intention to appoint Company's covenanted servants to the stations of collectors throughout the huzzoory mehals, as from experience we think it past doubt, that, situated as you are at the presidency, you cannot, without a local agency in the several divisions, secure the regular realization of the revenues; while you must be still less able to preserve the ryots, and other inferior tenants, from the oppression and exactions to which they are, in this country, so peculiarly liable, from the superior landholders and renters. You will therefore, on proceeding upon the ensuing year's settlement, divide out the huzzoory mehals into collectorships, in such manner, that no one collectorship shall exceed in jumma the sum of eight lacks of rupees; unless in cases where the division of a zemindarry would thereby be occasioned; and taking care, that the charge to be incurred, by the number of these new offices, do not exceed the funds arising from the saving in the article of moshaira; as well as that the charges of the revenue establishments in general do, (including the reserve already ordered for contingencies) on no account exceed the seventy-two lacks of rupees ordered by the Company. The receipt of your letter of the 13th February having led us to the consideration of the general subject of provincial dewans, we herewith enclose a copy of our proceedings and determination thereon; to which we desire your strictest attention."

Proceedings of Governor General and Council on abolition of provincial dewans.

The proceedings of the Governor General and Council, referred to in the above extract, on the abolition of the office of provincial dewan, were as follows. "Read the proceedings of the committee of revenue, composed of the Governor and Council, under

* See minutes of council, 28th December 1781, and 27th January 1785; in COLEBROOKE'S Digest, Volume III, page 312.

the date the 14th May 1772. The 7th article of the resolutions, passed in that committee, established, that a fixed dewan shall be chosen and nominated by the Board, who shall be joined with the collector in the superintendency of the revenue; that he shall keep separate accounts of the collections according to the established forms of the country; countersign all orders circulated in the mofussil; all receipts granted to the farmers; and all invoices and accounts transmitted to the sudder. The expediency of this regulation is remarked upon at the time by the committee; and, although they doubt of its immediate efficacy as a check on the collectors, they think, that it will be a certain means of counteracting that improper influence, which the banyans of the collectors are ever eager to assume; and that it will provide against the loss of rents and confusion of accounts, which the frequent removal of the collectors would otherwise unavoidably occasion. The Board, considering these reasons, and adverting to the great change, and further experience which has necessarily been generally acquired in the business of the collections by the Company's servants during an elapse of thirteen years, are of opinion, that the attainment of the first of the objects which the appointment of dewans held out, namely, their operating as a check on the collectors, is by far the principal consideration that could have led to such an establishment; of the acquisition of that object the committee then however greatly doubted, and many years experience has shewn it to be fallacious; nor can it be now doubted that this expedient of a native dewan is just as fit to serve as a cloak to, as it can be to operate as a check on, an European collector. The next consideration, viz. the counteraction of the influence of the collector's banyans, is of more importance: but the constitution of the chiefs and collectors of revenue, and the solemn oaths by which they have become lately bound by an act of the legislature of their country, may, it is hoped, when aided by other precautions, be relied on as a security against the undue influence of the persons here referred to. The third and last object, for the establishment of dewans, may, the Board think, be

easily supplied by subsidiary regulations. On the whole, the board do not think the real utility of the system of provincial dewans can, under the present circumstances of this government, (when every possible retrenchment is called for, and enjoined by the Company's orders,) compensate its expense; which, according to the information received from the accountant general to the revenue department, amounts per annum to rupees 42,000. Agreed therefore, that the native dewans be struck off, and disallowed, from every station where a revenue chief or collector is, or shall be, appointed; and that the sole charge, and full responsibility for the revenues, and of the due execution of the said offices of chief and collector, be vested solely in such chiefs and collectors respectively, under the following regulations. 1st. That they be in every case strictly prohibited from making use of the agency of their private servants, whether banyans or others, in the discharge of any part of their public duty; the Board expecting and requiring that in all cases they shall themselves stand forth, and act, as the only empowered agents of government, in their several stations; making use, as they may occasionally require, of the inferior public servants now allowed them. 2d. That the appointment and dismissal of those servants be vested in the chiefs and collectors respectively, with this proviso, that they transmit regular lists of the names of those they shall so prefer, to the committee of revenue; and give notice of all subsequent dismissions and appointments; and employ none but such public and registered officers, in any respect, in their official capacity; nor on any plea, or pretext, confer on any such public officer, or servant, any private or personal trust, in regard to his personal concerns; or vice versa; it being hereby declared, that every such double and blended appointment shall subject such chief, or collector, to the loss of his office, or to such other mark of the Board's displeasure as may appear adequate. 3d. That to provide against the loss of rents and confusion of accounts from any chief or collector being permitted to resign, it be, and it is hereby made, a standing rule of the service, that no chief or collector shall be permitted to depart from his station till either

he

he shall have delivered over complete charge of his trust to his successor, or to his assistant; which shall be signified by letter from such successor or assistant, before the chief or collector shall depart from his station; and this regulation shall on no account be dispensed with, unless by express permission of the Board; to be separately granted for any particular case that may require it.

4. That the chief, or collector, shall transmit monthly, along with his English treasury and towjee accounts, Persian counterparts thereof, under his official seal and signature, to be deposited among the native records of the khalsa. 5. That the ancient constitutional check of the canongoe's department, in regard to the collections, on all the officers therein employed, be now revived, and placed by the committee of revenue in a state of full and effectual operation, from the commencement of the collections of the ensuing Bengal year; that for this purpose the two head canongoes be themselves made resident in the khalsa at the presidency; and that a mohrir, on each of their parts, be without fail stationed in the collection catcherry of each of the chiefs and collectors; who are to keep daily accounts of the receipts of revenue, and regularly to transmit authenticated copies thereof, under their own seals, and without communicating the same to the collectors, to their principals at the presidency; whose duty it shall be to preserve these statements; to compare them, as they arrive, with the Persian statements of the same accounts received by the committee from the respective chiefs and collectors; and to report any difference that may appear; and further to execute all such other functions, as are properly dependent on their department. 6th. It is expected and required of the committee of revenue, that, more especially on the first introduction of this system, they be particularly attentive to the vigilance and good conduct of the chiefs and collectors; and to the regular transmission of the canongoe's monthly statements; and wherever they shall see cause to suspect any want of attention in respect to the security of the collections, or otherwise, they are hereby directed to pursue, without delay, the most effectual measures, by deputing fit persons, to correct such evils,

evils, after having obtained the sanction of the Board for such deputation, and the approbation of the person recommended to be so employed.

Distribution of provinces into collectorships in 1786.

In pursuance of the orders of government for a division of the huzzoory mehals into collectorships, these mehals were placed under the charge of collectors; and, exclusive of those before established in Behar, the provinces of Bengal and Orissa, were distributed into more than twenty collectorships.* Soon afterwards, viz. on the 12th June 1786, in consequence of instructions from the Court of Directors (dated 21st September 1785), the committee of revenue received a change of designation and constitution. A Board of Revenue, with one of the members of government as its president, was formed instead of the committee; but being “expressly constituted on the foundation and principle of the late committee,” as it subsisted, after the appointment of local collectors to execute all details in the revenue department, under their direction and control; the regulations made for the committee were ordered to remain in full force, and to be considered applicable to the Board of Revenue; except such as were altered or modified by a few general provisions for the new Board, which it is unnecessary to specify, as more explicit rules were subsequently enacted.

Board of Revenue, with a member of government as its president, substituted for the committee of revenue, in June 1789.

But former rules continued with little variation, till change of system in 1787.

Orders for a permanent settlement, issued by Court of Directors, and Board of Controul, will be hereafter stated.

With nature of annual settlements made after expiration of that formed in 1772.

Extract of letter from Governor General and Council to Board of Revenue, dated 5th February 1787.

THE orders of the Court of Directors, in concurrence with the Board of Controul, established by the statute 24 Geo. III, chap. 25, which were issued, in conformity with that act, for the formation of a permanent settlement of the revenues, will be stated under an appropriate head of the land revenue. The general nature of the settlements made, from year to year, after the expiration of the quinquennial settlement of 1772, will likewise be noticed under the same head. But the following extract of a letter from the Governor General and Council to the Board of Revenue, dated the 5th February 1787, may be here introduced, as explanatory of the ar-

* See particulars in proceedings of committee of revenue, approved by the Governor General and Council on the 25th April 1786. COLEBROOKE'S Digest, volume III, page 246,

rangements founded upon it. “ The Honorable the Court of Directors having prescribed several regulations for the arrangement of the revenue department, we think it necessary to communicate to you the following instructions, in conformity thereto, for your guidance. We direct, that you prepare, without loss of time, and lay before us, a plan for the arrangement of the country into collectorships, in such a manner as you may think best adapted to the currency of the business, and the mutual convenience of government and the inhabitants. In the formation of this plan you will attend to the following rules. That each zemindary is to continue undivided under one authority. That in the disposition of the several pergunnas into collectorships their contiguity be considered. And that no collectorship be so small as 5,00,000 sicca rupces, unless it be a frontier district, and particular circumstances, which you are to state, should render such a distinct establishment expedient and necessary. The Court of Directors having determined that it will tend more to simplicity, energy, justice, and œconomy to re-invest the provincial chiefs, or collectors, with the superintendency of the courts of dewannee adawlut; it is our resolution that their determination shall take effect from the commencement of the ensuing Bengal year 1194. You will therefore prepare the establishments necessary for the collectors in their judicial capacity; and specify for our information, to what collectorships the proceedings of the judges are to be transferred in consequence of the arrangement above directed. The collectors are to continue, as at present, to act under your immediate orders in all revenue matters; and to correspond with us on any subjects relating to the administration of justice; or the general government of the country. In order to prevent the interference of private banyans, or agents of any denomination, who have no official employ or responsibility, as well as for other considerations, the Court of Directors have ordered, that official dewans shall be stationed with each collector upon the principles of the regulations of 1773. We deem it advisable to permit the collectors to recommend the persons stationed with them as dewans, subject however to your confirmation,

tion, under this special restriction, that the persons, so recommended by them, shall not serve them as their private banyans, or in any private capacity. It is not our meaning, that the dewans are to hold, or exercise, any authority independent of the collectors; but in all respects to act under their immediate orders and controul. The power of apprehending in criminal cases, which by the regulations of justice is vested in the judges of adawlut in their capacity of magistrates, will of course be transferred to the collector in his judicial capacity. One of the principal objects of the 39th section, of the act passed in the year 1784, is to settle and establish, upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which their tributes, rents, and services, shall be in future rendered and paid to the Company by the ryots, zemindars, polygars, talookdars, and other native landholders. With a view to this point, and in conformity to the orders of the Court of Directors, it is our intention, as soon as sufficient materials and information shall have been obtained for that purpose, to settle a permanent revenue with each zemindar for a long term of years. But we are of opinion that the period is too short for undertaking this settlement, at the commencement of the ensuing Bengal year; particularly as after the conclusion of such a settlement, it is determined to leave the landholder in the uninterrupted management of his district, without renewing inquiries into the value and produce of his lands. We direct, however, that you keep this object constantly in view; and as preparatory to it, that you ascertain as correctly as the nature of the subject will admit, what are the real jurisdictions, rights and privileges of zemindars, talookdars, and jaghierdars, under the constitution and customs of the Mahomedan and Hindoo governments, and what were the tributes, rents and services which they were bound to render or perform to the sovereign power; and in like manner those from the talookdars, to their immediate liege lord, the zemindar; and by what rule or standard they were, or ought severally to be, regulated. These points will be best attained by a series of queries drawn out by you, accommodated to real circumstances

circumstances, and proposed to the most intelligent and experienced natives under your authority, either by yourselves, or the servants stationed in different parts of the provinces; and you will transmit to us their several answers, with such further illustrations as will arise from your own experience and observation, or on a comparison of the documents before you. For the present, we direct, that the settlement of 1194, be made for the period of one year only, and during the progress of it you will endeavour to collect the information above described; as well as what relates to the value of the lands; existing abuses; or other matters which it may be necessary to consider, arrange or determine, previous to the formation of a permanent jumma. As soon as the plan for the arrangement of the country into collectorships shall have obtained our sanction, you will send orders to the different collectors to form the settlement with the zemindars and farmers under their respective jurisdictions. The settlement in every practicable instance is to be made with the zemindar; but as various objections may lie against a zemindar, which will render a deviation from this general rule in their favour indispensable, such as incapacity from age, sex, or lunacy, contumacy or notorious profligacy of character, we authorize you to exercise a discretion, in the choice of the persons with whom the settlement is to be made, where such objections exist, and to delegate the power of exercising the same discretion to the collectors, by whom the settlement is to be made, subject nevertheless to your revision and controul. In such instances a discreet and reputable relation, by way of guardian or dewan, is to be preferred before any temporary farmer, or servant of government; but we know, that there are great difficulties in the matter, and that cases may occur in which the letting the lands to a farmer is the only means of securing the revenue of government, and preserving the inheritance of the zemindary inviolate. You will therefore, where such cases do occur, regulate your conduct by the exigency of the case. But wherever these deviations from our orders or recommendations take place, you will be careful to record them, as well as the reasons

on which they are founded, for our information. With respect to the jumma of the ensuing year, we leave it to you, to fix the amount payable by the respective renters. In general we conceive, that the present assessment may be deemed fair for the government to exact; and the renters to pay. Some variations may possibly be necessary; but, in all cases where remissions upon the jumma appear indispensable, we direct, that the reasons for them be particularly stated for our information; and that no settlement with such remissions be deemed confirmed until it has been reported to us, and received our sanction. We are sensible, that many regulations are requisite to correct the abuses that prevail in the internal detail of the collections; to prevent the oppressions exercised by the zemindars and farmers over their under renters; or to afford precise means of detecting and punishing them when committed; and to put an end to the collusions practised by the mofussil renters upon each other, or by the putwarries and ryots upon the zemindars. How far you may be able to establish such regulations in the settlement of the ensuing year, we cannot determine; but we recommend them to your attention, that you may carry them into execution as far as the time left to you, and the information you have obtained, will admit. We particularly desire that you will pay attention to model the kistbundies of the renters, so as to make the sudder demands correspond with the mofussil payments. We desire also, that you will revise the several regulations that have, at different periods, been framed for the revenue department; and that you will prepare from them, for our inspection, one general code for the officers employed in this branch of the government."

New arrangement of collectorships made in pursuance of above letter.

In pursuance of the above letter of instructions, the Board of Revenue proposed a new division of the country into collectorships; which was approved by the Governor General and Council on the 21st March 1787.* The number in the three provinces had been augmented

* The minute of the President of the Board of Revenue, (Sir JOHN SHORE, now Lord TEIGNMOUTH) proposing the new arrangement of collectorships, is printed in Mr. COLEBROOKE'S

augmented to thirty six, but was now reduced to twenty-three; or, including the salt districts, twenty-four. This number was deemed sufficient, and the reduction of expense, from the new arrangement, admitted of some increase, by a commission upon the net collections, being made to the salary of the collectors, which was considered inadequate, especially under the additional trust and duty committed to them, as collector, judge, and magistrate. For their guidance in each of those capacities, distinct regulations were framed, and published, both in the English and country languages. Those for the administration of civil and criminal justice, passed respectively on the 27th June 1787, have been already adverted to in former parts of this analysis.* The regulations for the conduct of the collectors, in the revenue department, were dated the 8th June 1787, and preceded by the following *Preliminary Observations*. “The Right Honorable the Governor General in Council, taking into consideration the regulations now proposed for the conduct of the collectors, thinks proper, in the first place, to observe, that the union of the powers appertaining to the functions of magistrate in the persons of the collectors, has imposed a degree of responsibility upon them, which calls for the exertion of all their abilities, zeal, and application. The happiness of the individuals under their authority, the prosperity of the country at large, and the interests of the Company, which are inseparably connected with the two former objects, now depend in a great measure upon their good management. Considerations of this importance are sufficient of themselves to stimulate zeal and animate abilities. A languid and literal adherence to the rules prescribed for their guidance may exempt the officers employed in the revenue department from public censure; but all of them, it is to be hoped, when they reflect upon the trusts vested in them,

Regulations for administration of justice, civil and criminal, when this duty was entruſted to the collectors, in 1787.

Regulations of 8th June 1787, for guidance of collectors, in the revenue department.

COLEBROOKE'S digest, with the resolutions of the Board, and of government, vol. III, pages 351 to 354. The extract cited from the letter of the Governor General and Council to the Board of Revenue, dated 5th February 1787, is also included in that compilation, page 316.

* Volume I, pages 32 and 850. See also COLEBROOKE'S digest, vol. III, pages 33, and 131.

will be animated to pursue a line of conduct upon a more enlarged scale, and to diffuse those general benefits it is in their power to confer, to the advancement of their own reputation, and that of the government of the country, so immediately entrusted to their charge. A comparative view of the effects of different management, and of the difficulties attending each station, will point out those to whom distinction is due; and the degree of it. A retrospection of this nature becomes the duty of government, and justice to individuals alike demands it. Commerce, population, and agriculture, must be promoted, or diminished, in proportion to the zeal of the acting authority, and the superintending controul of the supreme power. Exertions in the former will render the duties of the latter easy and pleasant. To reward and distinguish zeal, is the most agreeable task of superintending authority. Amongst other qualifications required in those who occupy the stations of collectors of the revenue, a knowledge of the languages of the country seems indispensable. A general acquaintance with the customs of the country, and the state of the people, with minute information on the local peculiarities of the districts they are appointed to superintend, are also essentially necessary. Every collector, exclusive of the official records he is bound to keep, should compile a distinct account of the different pergunahs under his charge; noticing under each whatever relates to it; such, for instance, as the real and comparative state of the cultivation and population in it; the rates and rules of assessment; an account of the conduct of the zemindar or farmer towards his under tenants; the number of talookdars; the nature of the produce, and peculiar usages in it; and the increase and decrease of the population; with such other remarks and observations as must arise from the business before him. A copy of this should be transmitted annually to Calcutta; and oftener, if required; with such additional observations and corrections as occur in the course of each subsequent year. Such a compilation may, in time, become a standard for conducting the business; and will enable every new collector to benefit from the knowledge and experience

experience of his predecessor; and however burthensome the compilation may prove at first, it will ultimately save both the time and trouble of the collectors. Daily occurrences require the information here pointed out; but not being recorded when received, it is again lost or imperfectly remembered. They should commence, without loss of time; and beginning with the principal pergunnas and zemindarries under their authority, proceed by degrees, as far as their other occupations admit, or occurrences suggest, to the lesser portions of inferior landholders. Many of the collectors, it is probable, have already, for their own convenience and satisfaction, prepared materials for this work; as every one, who is anxious to do his duty well, must wish to possess it. The Board of Revenue, exclusive of the information they will derive from it, will also have an opportunity of discovering the degree of attention paid by the collectors severally to the duties prescribed to them; an object to which it is, at all times, their duty to pay the greatest attention, as well as, from time to time, to report such observations as occur to them in consequence. The general injunctions, contained in the preceding observations, are to be considered as equally obligatory on the collectors, as the following particular rules, which are now prescribed for the regulation of their daily duty in the important offices committed to their charge.”

THESE rules having been re-enacted, with amendments, in the regulations of 1793, which will be stated in detail, it is unnecessary to specify them or the additions made to them, before the establishment of a permanent system, founded on the principle of rendering the courts of judicature, civil and criminal, altogether independent of the public officers employed in managing the revenues; and consequently withdrawing from the collectors, and Board of Revenue, the judicial powers which were vested in them by the regulations of 1787. The same reason precludes the necessity of particularizing the regulations passed for the Board of Revenue on the 25th April 1738. It is sufficient to notice that, by those regulations,

Reason for not
stating these
rules in detail.

Regulations for
Board of Re-
venue, 25th
April 1788.

lations,

lations, the general functions of the Board were declared to be “deliberation, superintendence, and controul.” The detail of business in the revenue department was vested in the collectors and other subordinate officers; and it was made their “principal duty to take care that the officers under their authority perform their assigned duties with regularity, integrity and assiduity.” To enable them to accomplish this “fundamental principle of their institution,” they were “invested with the following powers for the investigation and punishment of offences committed by any officer under their authority, according to the nature and degree of it. To summon him to the presidency to explain and justify his conduct; to impose a fine upon him not exceeding one month’s salary; and to suspend him from his office; reporting every instance of the exercise of these powers to the Governor General in Council.” The following rules were added for their guidance, in the discharge of their judicial functions; and their authority was declared to extend to all persons in the executive administration of every branch of the Company’s revenues; including land rents, salt, opium, customs, and duties* of every denomination, within the provinces of Bengal, Behar, and Orissa, or their dependencies; also to the salt comptroller, preparer of reports†, and all officers in any wise appertaining to the khalsa and revenue departments at the

Rules for discharge of judicial functions.

And to whom the authority of the Board was extended.

* The salt and opium, as well as the customs, were at this period under the control of the Board of Revenue. By the regulations of 1793, they were placed under the superintendence of the Board of Trade; and by regulation 9, 1810, the customs have been, as already noticed, again transferred to the Board of Revenue, and to the Board of Commissioners for the upper provinces.

† The office of *Preparer of Reports* for the revenue department was established in February 1781, when the committee of revenue was instituted; and the office of *superintendent of the khalsa records* was abolished. The principal duty of the preparer of reports was to inquire into, and report upon, matters referred to him by the Governor General and Council, or by the Committee, and subsequently the Board of Revenue. It was also his duty to receive petitions and refer them to the proper department, in which the subject of them was cognizable. He had, likewise, the immediate charge of the opium manufacture, subject to the authority of the Board of Revenue, till the transfer of the opium superintendence to the Board of Trade, in 1793; when the office of preparer of reports was also discontinued, as no longer requisite, under the arrangements then made in the revenue and judicial departments. See regulations for office of preparer of reports 23d May 1788, in COLESROOKE’S digest, vol. 3, page 280, with subsequent rules, page 491, &c.

presidency,

presidency, the immediate officers of the Governor General in Council excepted." When any complaints are preferred to the Board against a collector, his assistant or dewan, or any other officer subject to their authority, for matters cognizable by them, they are to call upon such person for his explanation and defence. If the complaint should be of a serious nature, such as for corruption, extortion, peculation, or oppression, they are, in justice to the person complained against, as well as to the complainant, required to institute an inquiry into the charge, and prosecute it to the proof or refutation of the complaint, either themselves collectively, or through their president, or the preparer of reports. In cases of complaints presented by vakeels, or agents, however, they are, in the first instance, to ascertain the authority of such agents to present the same, from credentials, general or special. If the complaints described in the preceding paragraph should be proved litigious and groundless, the Board of Revenue are authorized to punish the complaint by fine and by imprisonment, according to his or her sex, rank and circumstances, to the degree of the injury to the party complained against; and also by compelling the complainant to reimburse the latter any expences incurred by such complaint; immediately reporting the case and decision to the Governor General and Council, but without delaying execution. With respect to complaints of revenue jurisdiction in general, from renters and others under the authority of the different officers in the revenue department, against each other, by the leading principle of these regulations they are to be referred, in the first instance, to the collectors and other officers, for inquiry and redress; and occasional report, when thought expedient. The complaints of revenue jurisdiction, here alluded to, are those exempted from the cognizance of the dewanee adawlut by the 19th article of the public judicial regulations approved on the 27th June 1787. The Board of Revenue are however authorized, if they should deem any such complaints of sufficient importance, to institute an investigation into them at the presidency, or to depute a commis-

sioner for the same purpose to the spot. Appeals from the decisions of the collectors in matters of revenue jurisdiction preferred within the time prescribed in the revenue regulations, to the collector or the Board, are cognizable, in the first instance, by the Board of Revenue; with whom it rests to confirm, alter, or rescind the same, subject in like manner to the revision and ultimate decision of the Supreme Council, in case either of the original parties should think proper to make a further appeal; and provided such appeal be made within one month from the date of the decision of the Board of Revenue: but their decision shall remain in force, until the judgment of the Supreme Council is past thereon; unless they shall think proper to suspend the same on security given to abide the event of the suit."

Extra from report of Messrs. ANDERSON, CROFTS and BOGLE, commissioners appointed in 1776 to collect materials for ensuing settlement, &c.

Nature of this report and reason for introducing it in this place.

I SHALL conclude this introduction with the following extract from the report of Messrs ANDERSON, CROFTS, and BOGLE, the commissioners appointed in 1776, to collect materials for the ensuing settlement, and to ascertain, besides the quantity of land held exempt from assessments as *Chákerán*, or *Lákherój*, with other particulars relative to the land and rents, the actual payments made by the ryots to the landholders and farmers, during the period of the five years settlement formed in 1772. This report, dated the 25th March 1778, has not, I believe, been printed. It is not perfectly accurate, especially in the indefinite use of the term *rent*; as sometimes denoting the return, or compensation, for the occupancy of land, paid by the immediate occupant, or tenant, to a superior landholder, or his representative; and, at other times, signifying the public *land revenue* payable to government. But the preamble to the voluminous accounts, which were furnished by this commission, for about two thirds of the province of Bengal, contains a variety of useful information upon the subjects of the present and succeeding parts of this analysis; and is therefore inserted in this place. "The only general and regular assessment of revenue in Bengal, was that which

was formed in the reign of **AKBAR***. The whole of the lands were then valued, and the rents of each inhabitant and of each village ascertained. A regular gradation of accounts was established. The rents of the different inhabitants, who lived in the neighbourhood, being collected together, formed the account of a village; the rent of several villages, being next collected into one view, formed the account of a larger portion of land; the aggregate of these accounts exhibited the rent of the district; and the sum total of all the districts in Bengal formed the account of the revenue of the whole province. From the reign of **AKBAR** till the government of **JAFIER CAWN**†, the annual amount of revenue, and the modes of levying it so established, were preserved with little variation. **JAFFIER CAWN** and his successors appear first to have broke through this system by introducing the practice of imposing new assessments on the country. **ALIVERDI CAWN**, added to these taxes‡, and they have been largely increased since the revolution which took place after his death§. The additional assessments which, from time to time, have

* 1556 to 1605. But the assessment of *Toodur*, or *Tourun, Mul*, here referred to, is supposed to have been formed about the year 1582. It amounted to Rs. 1,06,93,152 for 19 sirkars, composing the province of Bengal; or including 5 sirkars annexed from Orissa, to Rupees 1,19,61,482.

† 1713 to 1726. Mr. GRANT, in his analysis of the revenues of Bengal, has exhibited **JAFIER KHAN**'s *Jumma Kamil Toomary*, for the Bengal year 1128, or 1722-3; amounting (with annexations of territory, Rs. 14,35,593) to Rs. 1,42,88,186.

‡ Mr. GRANT has given the following statement of the *abwab soobadary*, to the end of **ALIVERDI KHAN**'s administration in 1756.

By JAFIER KHAN ,...	1. Khas-noveesy,.....	rupees	2,58,857 0 0
By SHUJA KHAN ,...	2. Nuzeranna Mokurrery,...	—	6,48,040 0 0
	3. Zur Muthoat,.....	—	1,52,786 0 0
	4. Muthoat Feel-Khanah,...	—	3,22,631 0 0
	5. Foujdary Abwab,.....	—	7,90,638 0 0
By ALIVERDI KHAN ,	6. Chout Marhattah,.....	—	15,31,817 0 0
	7. Ahuk and Khisht Gour,...	—	1,92,140 0 0
	8. Nuzurana Munsoorigunge,...	—	5,01,597 0 0
Total to 1756, rupees			43,98,506 0 0

§ Mr. GRANT states the increase by **KASIM ALY KHAN**, to the year 1763, as follows.

9. Surf Sicca $1\frac{1}{2}$ anna per rupee,....	4,53,488 0 0
10. Kifayut Hustabood,.....	14,72,599 0 0
11. Kifayut Foujdaran,.....	36,75,239 0 0
12. Towfeer Jageer daran,.....	18,81,014 0 0
Total increase rupees	74,81,340 0 0

have thus been imposed by the government, the changes which the country, in the course of so many years, has undergone, the alteration in the price of grain and other produce, and the consequent alteration in the nature and rent of land, have rendered the valuation of *AKBAR* in no wise applicable to the present state of Bengal. To attempt to ascertain the assessment and taxes which subsisted in the time of *AKBAR*; to trace the alterations that have since taken place; and to apply this knowledge to the purpose of raising a revenue from this country in its present situation, were a task equally difficult and unprofitable. We shall therefore confine our attention chiefly to the actual state of the revenue, and to the sources from which it is now derived."

"The revenue of Bengal may be classed under the three general heads of *maal*, *sayer* and *bazee jumma*. Under the head of *maal* is comprehended such revenues as are of a fixed and ascertainable nature, and issue out of known and permanent sources. Of these the rents of lands form so great a proportion, that the word *maal*, in its common acceptance, is often exclusively used to express land rents. Other revenues however, such as the rents of salt works, of orchards, and of sugar manufactures, a tax on persons following particular professions, and some less considerable articles of profit, are generally referred to this branch. The head of *sayer* contains such rents and profits as are uncertain in their amount, and annually liable to considerable variations. Of this kind are customs, and duties collected on merchandize passing through the country, or sold in the markets, rents of lakes or of ferries, and fees paid by brokers, or by weighers. Such articles of profit, as are of so casual and extrinsic a nature that they cannot be foreseen or estimated, properly belong to the third general head, or *bazee jumma*. These are so various, and so different from each other, that we must in this

The three last articles however, consisting of assets from local scrutinies, or from resumed assignments to *foujdars* and *jageerdars*, must be distinguished from the *abwab* or cesses added to the *asil jumma*, or original assessment.

place

place content ourselves with giving a few examples. Fines, forfeitures, and fees on marriages before they were abolished, used to constitute part of the *bauzee jumma*. Contributions made by the priests of particular casts of Hindoos, acknowledgments given for the liberty of grazing cattle on plains or commons, of selling spirituous liquors, or of cutting wood or long grass, are also usually included in this class. But as some of the more minute articles of profit, which we have mentioned, are frequently classed indiscriminately, under each of these heads, and as there are other sources of advantage, (such for instance as gain in the exchange of rupces) which are often entered under distinct names, it is impossible to describe the several branches of the revenue with that precision which we could wish. But we believe we are justified in the general division of the subject, and that the outlines with which we have characterized the *maal*, the *sayer*, and the *bauzee jumma*, are fairly drawn.*

“ AMONGST all these various sources of revenue and of profit, those which issue out of land form so capital and important a branch, that, comparatively speaking, the revenue of Bengal may be said to consist in land rents. It is necessary therefore to in-

* The most general division of the sources of revenue, in the Mogul system of finance, is that of *mâl* and *sayer*: the former term, which literally signifies wealth, or treasure, being used to denote the *permanent revenue* arising from land, or other tenements and funds of a fixed, durable nature; the second title, which imports fluctuation and change, comprehending the *variable revenue* of every description, from customs on exports and imports, internal duties on the transportation and sale of grain, and all kinds of merchandise; professional taxes, and other imposts upon persons and property. The rents of orchards, pasture ground, and fisheries, were also sometimes included in the *sayer* receipts, under the denominations of *phulkur*, *bunkur*, and *julkur*, though these more properly belong to the first general head, or permanent revenue. The aggregate amount of the *variable revenue* levied by the Mohummudan governments of Hindoostan has been computed (by Mr. JAMES GRANT, in his political survey of the northern circars) never to exceed one tenth of the *mâl* and *sayer* collections; and when the latter was separated from the land revenue of Bengal, Behar, and Orissa, at the time of forming the settlement of 1769-90, the actual proportion was found to be not more than 4 per cent. The gross *jumma* of the three provinces, for the Bengal and Fusly year 1196, *mâl* and *sayer*, was Sa. Rs. 2,65,45,811; and the total *sayer*, including the tax on spirituous liquors, amounted to sicca rupees 10,67,111. The customs, and revenue arising from salt and opium, are not however included in this calculation.

investigate this branch of the public revenue with particular attention. Almost all the lands of Bengal are held under some person who collects the rents ; pays a revenue ; and stands between the government and the immediate tenant of the soil. Whether the land be considered as belonging to government ; or the property of the person under whom it is held ; or of him by whom it is occupied and cultivated ; it is still subject to some superior, who possesses rights and claims over it, the extent of which we presume not to examine. But whatever these rights may be, the land itself is liable to the payment of the government's revenue, and whoever possesses it holds it on this special condition. The persons who thus hold land, subject to the payment of revenue, may be classed under the following heads :—*zemindars* ; *chowdries* ; *talookdars* ; and *ryotts*. A *zemindar*, whatever rights his tenure or his office may convey, is the superior of a district ; of which (unless his authority is suspended) he collects the rents ; and for which he pays a revenue to government. He is the first, in point of rank, amongst the several landholders. A *chowdry* is inferior, though next in rank to a *zemindar*. He is also the superior of a district, and in most other points similar to a *zemindar*. *Talookdars* are either *huzzoory*, or *muzcoory*. The first hold under, and pay their quota of revenue immediately to government ; and although inferior in rank and title to either of the two former classes of landholders, seem to possess their little territories on a tenure full as secure, and at a revenue generally more fixed. The *muzcoory talookdars*, on the contrary, hold under a *zemindar* or *chowdry*, to whom they pay their rents.* The immediate occupant of the soil, whether he be considered as proprietor or tenant, is called *ryott*. The ground of which he enjoys the fruits, and for which he pays a rent, is granted by the *zemindar*, the *chowdry*,

* The stated distinction between *huzzoory talookdars*, (or those privileged to pay their revenue immediately to the huzzoor, viz. to the sovereign or his representative) and the *muzcoory*, literally specified or registered, is not generally established. In a vocabulary of revenue terms, published by Mr. GLADWIN, the *muzcoory talookdars* are described as "independent talookdars" who pay their revenue to government, without the intervention of the *zemiudar* ; and it is added, that they "received sunnuds for their lands from the emperor, at the tukseem jumma."

or other superior, in whose district it is situated. The word *ryott*, in its most extensive signification, means a subject; but it is usually applied to the numerous and inferior class of people, who hold and cultivate small spots of land on their own account, and might perhaps properly be denominated *terre tenants*. It is here confined to the last sense. The grand and important distinction, in the condition of the several classes of landholders, appears to be the holding immediately under the government, and paying the assessment of revenue into the public treasury; opposed to holding under a subject. To hold immediately under government is justly regarded as a high privilege. The favor and interest which those who are immediately connected with government naturally possess, the more ready attention which, in consequence, is paid to their representations, and the desire that every man must feel to be emancipated from a state of dependence, conspire to render this privilege not only a mark of distinction, but the source of real and substantial advantages. The two higher classes of landholders appear always to have enjoyed this privilege. There is reason to believe however, that it was originally confined solely to them; that the whole of Bengal was distributed amongst zemindars and chowdries; and that they, in order to bring waste land into cultivation, in consideration of a sum of money, or the performance of particular services, or to provide for a relation or dependant, were induced to parcel out portions of their districts to talookdars, subject to their authority, and who engaged to collect and pay an annual revenue. But the relative state, in which a zemindar and his vassal were thus placed, gave rise to circumstances that rendered it the interest of the one to endeavour to dispossess his tenant, and of the other to free himself from dependence on his superior. A talook comprehended only a few villages, or a small tract of ground, and the possessor was able to attend to the cultivation of every part of it. It improved by his care; the rents of it increased; and it became more populous and valuable than those parts of the district, which remained under the management of the zemindar or his officers. The avidity of the zemindar be-
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ing awakened, he endeavoured, either by force to seize the talook, or by raising the rent to compel the possessor to abandon it. These oppressions furnished the talookdar with a plea, and strengthened his desire of becoming independent; and the government, through favor to him, or as a punishment on the zemindar, frequently removed him from under his authority. The great number of talooks, which from time to time have been lopped off from zemindaries, and rendered huzzoory, while it has served to diminish the power and advantages of particular zemindars, has also tended, by increasing the number of the immediate tenants of government, to render the collection and accounts of the revenue more difficult and intricate. The rent of land, through whatever channel it passes into the public treasury, is paid by the ryot, or immediate cultivator of the soil. It is unnecessary, perhaps, to enter into a minute examination of the different tenures on which ryots cultivate, and hold their lands; or to attempt to enumerate the various and often contradictory customs that prevail in almost every province. The most general distinction however, with respect to their tenures, is that of *koodcásht* and *pyecásht*. The name of *koodcásht* is given to those ryotts who are inhabitants of the village to which the lands that they cultivate belong. Their right of possession, whether it arises from an actual property in the soil, or from length of occupancy, is considered as stronger than that of other ryotts, and they generally pay the highest rent for the lands which they hold. The *pyecásht*, on the contrary, rent land belonging to a village in which they do not reside. They are considered as tenants at will, and having only a temporary and accidental interest in the soil which they cultivate, will not submit to the payment of so high a rent as the preceding class of ryotts; and when oppressed, easily abandon lands to which they have no attachment. The *koodcásht* ryotts partake of the rights of hereditary landholders. The *pyecásht* are more of the nature of annual or transitory tenants. Ryotts, with respect to the manner of paying their rents, may be divided into *haree*, *fussulce*, and *comar*. The first hold a certain quantity

tity of land, for which they pay a fixed rent per bega whether cultivated or fallow. The rent of the fussulce ryots depends on the crop which their land is made to produce. Thus a bega of ground, if cultivated with mulberry, pays a much higher rent than if sown with rice. The comar ryots pay in kind, and give a proportion of the crop as the rent of their land."

"THE explanations, which we have hitherto given, relate to land subject to the payment of rent, or revenue. But in every district throughout Bengal, there are considerable quantities of land exempted from rent,* under the general denomination of *bazee zemeen*, or more properly *lakharaje zemeen*, by a grant, either of some of the former emperors, or of the zemindar, or superior of the district. The lands exempted from the payment of revenue by firmauns of emperors, are called *ayma*.† They constitute however but an inconsiderable proportion of the *bazee zemeen*, and in some places have ever been made liable to the payment of a small quit rent. Beneficiary grants of this nature have been made by zemindars to a much larger extent, and under so many names, and pretences, that it is difficult to enumerate them: they have been bestowed chiefly for the support of Brahmins, priests, and Hindoo temples, or for other religious purposes. We shall afterwards have occasion to enquire more fully concerning these endowments. Some part of the land of a zemindarree is also exempted from revenue under the name of *nancar*, or lands set apart for immediate support of the zemindar. *Chakeran zemeen*, or lands appropriated to the maintenance of public servants, may also be comprised under the head of free lands. These at present consist chiefly of small portions, or detached spots of ground, and are

* The term rent is here evidently used, as in several other places, to denote the public revenue, or land tax. But in the common signification of the word, it cannot be properly said that any land is exempted from rent; except perhaps when the produce is assigned in lieu of wages for service; and even then the servant may let it; and receive rent. It is preferable therefore to appropriate the word *revenue*, or *assessment*, to the land tax, when this is meant to be spoken of exclusively.

† Royal grants of exemption include other *lakharaj* lands, besides those denominated *ayma*; as will be stated under the proper head.

enjoyed by the lower class of officers in lieu of wages. But as the practice of bestowing jageers on the superior officers of government, or for the support of particular establishments, is not only every ancient, but has been continued to the present time, it may not be improper to say a few words concerning them, whilst we are treating of the *bazee zemcen*. Whilst the constitution of Delhi remained entire, the expences of the nazim and the dewan, and of all the great officers of state, the charges of maintaining a fleet of armed boats at Dacca, the establishment of artillery, and of all the principal departments of the government, were provided for by assignments of the revenues of particular tracts of land. The districts, of which the revenues were so appropriated, were termed *jageer mehals*, and the zemindars in whose territories they were situated, were allowed a proportionate reduction of their share of the general assessment. Assignments of this kind were likewise frequently granted for the support of individuals. Such as were hereditary were termed *ullumgha*, those which expired with the life of the incumbent were called *zaalee*, or personal; and those which were held officially, or on the condition of performing particular services, were distinguished by the name of *mushroot*, or conditional. Before the accession of JAFFIER CAWN, a very considerable proportion of the revenue of Bengal was thus assigned in jageers. But during his government many of these grants were resumed, and in lieu of them others were given on the province of Orissa.* And as the successors of JAFFIER CAWN gradually threw off their subjection to the emperor, the system of jageer fell into disuse in Bengal; the expences of the different departments of state were defrayed from the public treasury; and the jageers held by individuals, either fell in as the incumbents died away, or were resumed. These assignments however are still common in the neighbouring province of Behar, and one or two instances might be given of their existence in Bengal."

* The jageer assignments in TOORUN MUL's *Toomar Jumna* of 1582; and SULTAN SHIRJA's assessment of 1658, are stated by Mr. GRANT to have amounted to Rs. 43,48,892; of which 10,21,415 were resumed by JAFFIER KHAN; leaving Rs. 33,27,477, in his assessment of 1722.

“ AFTER this short enquiry into the nature of the different kinds of land, and the condition of the several persons who hold it, we shall proceed to explain the manner in which a district is subdivided, and the revenue of it collected. A large zemindary may be divided into *gongs* or villages; *turriffs* or *dhees*, which comprehend a number of villages; and *pergunnahs*, which contain several turriffs, and constitute one of the most considerable division of land, next to a zemindary. In each of these places, whether a gong, turriff, or pergunnah, a cutcherry or court for collecting and managing the revenues, is held by the officers of the zemindar. The *mundul*, or *muccuddum*, is the chief ryott of a *gong*, or village, and may be said to hold his office by the good will of the inhabitants. His duty and situation lead him to act as a mediator between the ryots and the petty collectors of the revenue; to assist them in selling their crops, and in raising money to pay their rents; and to settle or accommodate the little disputes which arise in the neighbourhood. He is therefore chosen from amongst the oldest or most intelligent inhabitants; and his influence and services depending solely on the good opinion of the ryots, it is not the interest of the zemindar to change him, so long as he preserves their confidence. The head officer of a gong or village, on the part of the zemindar, is styled *currumcharee*, or *putwaree*. Were we to distinguish their duties according to the import of names we should assign to a *currumcharee* the collecting the rents, and the general management of the business of the village; and to a *putwaree* the keeping of the accounts. But their duties are often considered as similar. In large villages both of these officers are employed: in small villages there is occasion only for one. The *halshanah* is also an officer of the zemindar. He is employed in measuring and marking out the ground which each ryot possesses; in distributing land to new tenants; and where the rents are paid in kind, in getting in the proportion of the crop which is due to the zemindar. The *currumcharies*, *putwaries*, and *halshanahs*, are seldom changed. The experience and knowledge, which they possess, recommend them to every superior; and whether the rents

be paid to a zemindar, to a farmer, or to a collector immediately appointed by government, they generally continue to hold their offices. A *gomastah*, on the contrary, is immediately appointed by the person who is in possession of the district, and is frequently changed at the end of the year, without any great inconvenience to the revenue. He is placed as a check over the several officers whom we have mentioned. An *etmaumdar*, or *shaikhdar*, is also a temporary officer appointed to manage and to collect the revenue of a *dhee*, *turriff*, or *pergunnah*. The *gomastahs* of the different villages, comprehended within his division, transmit their accounts, and pay the revenue which they collect, to him; for which he is accountable in the same manner to the superior officer of the zemindar. The *sudder*, or head, *cutcherry* of the whole district, in which the zemindar or his *dewan* presides, is held at his usual place of residence; and orders are issued from thence to these several officers and subordinate *cutcheries*. But in extensive zemindarries, it is usual for the zemindar to farm out the revenues of particular districts at a certain annual sum. The farmers are called *kutkenadars*, and stand exactly in the stead of *shaikhdars* or *etmaumdars*. The latter receive a salary and are accountable for what they collect: The advantages of the former depends on the bargain they have made. From the account of the customs which obtain in great zemindarries, a general idea may be formed of the nature of inferior portions of land. These, according to their size, may consist of only a few villages, or may extend to several *turriffs* or *pergunnahs*. But the business of a *chowdry*, or of a *talookdar*, is conducted on the same principles, though on a smaller scale. Their officers are distinguished by similar names, and hold similar courts for collecting the rents, and transacting the affairs of petty territories.”

“ HAVING shewn the manner in which land, with respect to revenue, is divided; and having enumerated the names and duty of the persons who hold it, or who are employed in collecting the rents; we think it necessary to explain the nature of the accounts
which

which are kept for the internal management of a district; and although in this extensive province the names, and forms of accounts, vary in different parts of the country, yet there is one general character that runs through the whole, and which it may be sufficient for us to point out. The principal objects of all accounts of revenue, or the chief points which they seem intended to ascertain, are 1st, the quantity of land; 2d, its jumma; 3d, the payments or receipts on that jumma; and 4th, the balances or arrears. These distinctions, in general, sufficiently mark the sense in which they are to be understood; but the term *jumma* will recur so often, and is of so various and uncertain a signification, that it may be not improper to premise an explanation of it. *Jumma* literally signifies amount. 1st, When applied to land, it means the original rent at which it is supposed to have been rated in the time of ACBAR; or an ancient rent fixed at some later period. It is then called *assul jumma*; and is used in contradistinction to the amount of the subsequent taxes, called the *aboab jumma*. 2d, When applied to *sayer* or to other uncertain sources of revenue, it is understood to be the amount at which these revenues are estimated, or at which they are farmed, and is distinguished by the addition of the name of the particular branch of revenue with which it is connected; being called *sayer jumma*, *bazce jumma*, or *curlun jumma*. Where the revenues or profits are of so uncertain a nature that they cannot be estimated, and are stated only according to the sum received, they are entered under the head of *husbul mussooly*, which means, *according to the amount received*. 3d. The aggregate of all these different sources of revenue, whether the rents of lands, the receipt of customs, or other incidental profits, when applied to a whole division, is termed the *mofussil*, or *hustabood, jumma* of that division; which implies the gross revenue to be collected in all the villages, as rated in the accounts. 4th. The portions of the *hustabood jumma*, in ascending through the accounts of the villages, *dhees*, and *pergunnahs*, are distinguished by the name of the division to which its produce is to be remitted. Thus the jumma of the se-

veral dependent villages, after deducting the expences of collection, is called the *dheehautee jumma*, and exhibits the nett estimated sum to be received at the cutcherry of the dheer or turriff. The *pergunnatee jumma*, in like manner, is an estimate of the revenue to be received at the cutcherry of the pergunnah; and the *zemindarree jumma* is the estimated amount of the revenue of the whole zemindarree. The assessment, or sum demanded by government, from zemindars, chowdries, or huzzoor talookdars, is called the *sudder jumma*. The word *sudder* means head or chief, and in the business of the revenue is used as a relative term, and in contradistinction to *mofussil*, which signifies parts or branches. Thus the head court of a zemindarree is *sudder* with respect to the villages or turriffs, or subordinate parts of which it is composed; and is *mofussil* with respect to the cutcherry at Moorshedabad or Calcutta."

" We return from this digression to describe the manner in which the accounts of a district are kept. 1st, The *chitta* is an account of all the lands of a village, divided into *daugs*, or portions, according to the order of the time in which they were measured. It contains the quantity of land in each daug; a description of its boundaries; the different articles with which it is cultivated; and the names of the ryots who occupy it. Whenever a measurement takes place, which is generally in the course of ten or fifteen years, such an account is drawn out and signed by the gomastah, and deposited with the putwarry of the village. But, as one ryot may hold ground in different daugs, the lands of each ryot are not distinguished in the account. 2d, *Payla* is an abstract of all the *chitta* accounts of a village, arranged under the heads of *pyecasht*, *hoodcasht*, *comar*, *dewutter*, &c. according to the dates of measurement. 3d, *Ekwal* is a particular account of the names of the ryots, and of the measurements of the different spots of land which they hold; arranged under the heads of *pyecasht*, *hoodcasht*, *comar*, *dewutter*, &c. These three accounts of land are not altered, or new formed,

every

every year. 4th, *Jummabundy* contains an account of the jumma, as well as the land. It specifies; 1st, the name of the ryot; 2d, the quantity of land which he holds; 3d, the crop with which it is cultivated; 4th, the rate per bega; and 5th, the total of the annual rent of each ryot. As a new measurement does not take place every year, this account is annually liable to considerable changes. Thus if one ryot relinquishes a portion of his land, and another takes it, or it lies uncultivated, in either case it will occasion an alteration in the original jumma. This account although so very useful, is not kept in every part of the country. The want of it however is in some measure supplied by means of the *khurcha*, which shall be presently described. 5th, *Nuccul pottah*. This is a register of all the pottahs or grants by which the ryots hold their lands. 6th, *Cummee beshee dur furdce* is an abstract account of the increase or decrease in the jumma of each ryot at the beginning of the year, to which the putwarce, as a sanction for his own conduct, procures the signature of his immediate superior. 7th, *Hal hukceekul* is an account formed at the beginning of the year from the jumma and nuccul pottah. It specifies the assul jumma of each ryot, the different aboabs or taxes subsequently imposed, the increase or decrease in the rent, and the alterations occasioned by the ryots changing their lands. This account therefore contains, in fact, the settlement of the revenue to be collected from the ryots during the course of the year. 8th, *Kistbundee or mawaree*. This is an account of the monthly instalments, by which the annual rent is to be paid. The original jumma is first divided into twelve equal parts, But as the payments must be regulated chiefly by the harvests, the equal proportions, or month's rents are broken into $\frac{1}{4}$ or quarter months; thus Bysaak $\frac{1}{4}$ month; Jayet $\frac{1}{2}$ month; Assar 2 months. In some places taxes are imposed by adding a month or half a month's rent to the jumma. In such case it is not uncommon, from the accumulation of taxes, to find that the whole year's jumma, instead of twelve, contains eighteen or nineteen months rent. 9th, *Torjee*, otherwise termed *baky joy*. This account exhibits the kist or

monthly

monthly instalment; the amount paid by the ryot; and the balance, if any remains, is added to the kist of the succeeding month. 10, *Khurcha*, in some places termed *tullub baky*, is an account current of each ryot. On the right side of the page, are specified the particulars of the jumma as ascertained in the *hal hukceekut*, and on the left are inserted the sums which he has paid, with the dates of payment, 11th, *Boorah tokrah* or *puttorah*, is formed at the end of six months or eight months, and by way of pre-eminence, is called *hissab*, or *the account*. In this the putwarries insert the jumma and receipts, until the date; either on account of revenue, temporary muthoots, tuccavy (money advanced to the ryots to enable them to cultivate their lands), or under any other denomination whatever. The balance being struck, is added to the demand for the remainder of the year; and the aggregate being divided into monthly proportions, according to which it is to be paid, forms a new kistbundee. 12th, *Akheree hissab khurcha*, or as it is called in some places, *wassil baky khurcha*. This is an adjustment of each ryot's account made out at the end of the year, stating the jumma, the receipts and the balances for the year. It also states the *oozery*, or pleas for abatement of rent, which being deducted, leaves the sum of undisputed balance. 13th, *Akheree jumma wassil baky*, is an aggregate of the two former accounts, and contains a state of the revenue of the whole village, distinguished into jumma, receipts and balances. It first states the jumma of the preceding year; the increase or decrease which has since taken place; the undisputed balance outstanding; and the amount of all these constitutes the jumma or demand for the current year; 2d, the sum received either of the revenue of the current year, the arrears of the former, or of tuccavy, are next entered under their respective heads; and the balance, together with the different articles of oozery, is inserted in the latter columns. 14th, *Shomar* is an account of the daily receipts of whatever denomination, whether collected according to the kistbundee or received as presents, muthoot, or the like; and in general contains soul memorandums of every day's transactions.

tions. 15th, *Seeah* is an account similar to the *shomar* from which it is formed ; but being drawn out afterwards, is more regularly arranged under the different heads of hoodcasht, pyecasht, comar, &c ; and contains in general the collections only on account of the kistbundec. The sums received as presents or muthoots are not inserted. This account contains also the expenses. 16th, *Puttun jumma khurch* is a monthly treasury account, specifying the receipts and disbursements arranged under the different heads for each month, formed from the preceding accounts. 17th, *Terrije jumma khurch* is an annual treasury account formed from the puttun jumma khurch. 18th, *Akherce nekhas*. All the foregoing accounts are kept by the currumcharies and putwarries. The gomastah, etmaundar, or head collector, or person who has the management of the turriff, pergunnah, or division, ascertains annually the articles collected under the head of each individual ryot. He then checks and retrenches the articles of expense in the currumchary's account ; and having given credit for the amount paid to him by currumcharies, he ascertains the sum due from them, and the balance due from the ryots. This adjustment is called the *akherce nekhas*. Abstracts of all these accounts, or adjustments, are kept by the officers in the turriffs or pergunnahs, and transmitted to the sudder cutchery of the zemindar ; where they are collected into one statement, which exhibits the rents, the payments, and the balances of the district. At the commencement of the year, an account called the *doul bundobust*, is drawn out by the zemindar. It contains the rent roll of the zemindarry, and is formed by adding together the rent of each muzcoory talookdar, the sum which each kutkenadar has agreed to give for his farm, and the estimated revenue of such parts of the district, as are to be collected by the immediate officers or agents of the zemindar. By the regular subordination of these cutcherries, and the chain of accounts which we have described, the zemindars, and other landholders, are enabled to transact the affairs, and to collect the revenues, of their respective districts. It remains to consider the modes by which the revenue is assessed,

and the checks by which the payment of it is secured to government."

"In forming conclusions on this subject, and indeed in all our reasonings concerning the revenue of Bengal, we cannot too carefully avoid the comparison between the customs and institutions that prevail in this country, and those which are established amongst a people more free and refined. The revenue of Bengal consists chiefly of land rents. The proportion taken by government has consequently been always very large, when compared with the land tax of states, where the invention is exhausted in discovering other objects and modes of taxation, which shall raise a revenue in a manner imperceptible to those who actually pay it; and where it is rather the policy to conceal than to lighten the burthen. In the first part of this address we observed that the ancient assessment in Bengal was imposed according to an actual survey and valuation, made in the time of AKBAR, and that this continued long to be the standard by which the revenue was raised. In order to preserve and correct this valuation and register, institutions well calculated for that purpose were formed. Two hereditary canongoes were appointed by the emperor. Counterparts of all accounts were kept in their office as public records; their naibs or deputies were stationed in different parts of the country to mark the establishment of new villages, transfer of lands, and other circumstances which occasioned a change in the state of the country; and every sale or deed of transfer, the measurement, the boundaries, and divisions of land, were registered by them with a minute exactness. These institutions appear well adapted to the nature of a simple and despotic government; and to a country, which, as the province of a great empire, was governed by foreign viceroys, and officers who were frequently changed. The records of the canongoes, containing a history of the successive alterations which took place in the state of landed property throughout the kingdom, furnished an extensive and permanent source of information.

They

They were referred to on every point that respected the finances or civil government, in all disputes concerning lands; and served equally as a guide in imposing or collecting the revenues, and as a check on the embezzlements, and exactions of the zemindars and public officers. From the establishment and powers of this office, from the occasional and subsequent surveys and valuations which from time to time were made of different districts in Bengal, and from the measures that were taken to collect the revenues of zemindarries which had fallen in arrears, it appears to have been an established maxim in this country, that the accounts of the rents of every portion of land, and other sources of revenue, should be open to the inspection of the officers of the government. It was chiefly by the intimate knowledge, and the summary means of information, which the government hereby possessed, that the revenue was collected, and that the zemindars were restrained from oppressions and exactions. To the neglect of those ancient institutions which we have described, and to the want of information in the government of the state and resources of the country, may perhaps justly be ascribed most of the evils and abuses which have crept into the revenue. An exposition of some of those evils will best serve to point out the utility of the ancient system; and seems necessary also to elucidate and justify the extensive plan upon which our commission has been executed. When the ancient mode of assessment, on an actual valuation, fell into disuse, and the sum demanded by government from the zemindars, as their respective quota of revenue, came to the fixed, not from a knowledge of the capacity of their several districts, formed on regular and authentic accounts; but merely by a conjectural estimate; this innovation on the part of government authorized the like practice by the zemindars; and every additional sum exacted from them was levied by accumulated taxes on their vassals and ryots. When a part of the ryots could no longer submit to such exorbitant demands, they were forced to shun persecution by deserting their lands and habitations. The revenues of the zemindars being thus diminished, the rents of the
remaining

remaining ryots were proportionably increased, and new demands occasioned new desertions. These circumstances mutually operate as causes on each other, and largely contributed to the impoverished state of some of the districts of Bengal. The taxes multiplied to such a degree, and were raised under such a variety of names and pretences, that it became, in many cases, a matter of no small difficulty to ascertain the rule by which the complaint of a ryot for undue exactions of rent ought to be enquired into and decided. Nor was it in the power of the government effectually to remedy this evil without more intimate knowledge of the amount of revenue of each district. For although the increase of the assessment may have been the principal, or at least the original cause of the various additional taxes imposed on the ryots, it does not follow that a reduction in the assessment would, in the same manner, produce a diminution in their rents. The prospect of contingent and future benefit from the greater cultivation and improvement of his country, is hardly a motive sufficiently powerful to induce a zemindar to forego the immediate advantage which he enjoys by rack-renting his zemindarree, and exacting the greatest possible revenue from his tenants and vassals. Were it necessary to support the truth of this position, we could produce many proofs from the accounts which we have collected. The instances, especially in large zemindarries, are not unfrequent, where a reduction in the demand of government has been immediately followed by new taxes and new impositions. It appears also from experience that unless the proportion, which any particular tax bears to the amount of the assessment on the whole district, be previously ascertained, it cannot be abolished without opening a door to great impositions. For as soon as the intentions of government are known, it is then impossible to procure faithful accounts of its amount. It becomes the interest of every zemindar to form exaggerated estimates; and to state his loss at as large a sum as possible. In the year 1771, the *bazee jumma*, which was supposed to consist only of fines and forfeitures, was, in consequence of the commands of the Company, ordered to be
abolished.

abolished. It was not then known that this extensive branch of revenue comprehended many taxes of an unexceptionable nature. In the year 1772, the *sayer chahunta*, or duties collected by zemindars on goods passing through their districts, was abolished, and a new system for the management of the customs established. To indemnify the zemindars for the loss which they sustained by this measure, a deduction from their revenue was granted them, but being possessed of no accounts by which an estimate of the whole sum collected throughout the provinces under this head, or of the respective proportions of each zemindar, could be formed, government was reduced to the necessity of granting abatements according to the accounts then delivered in by the zemindars themselves. Similar inconveniencies attended the abolition of *maroocha*, or a tax on marriage; and claims on account of the abolition of those oppressive and impolitic taxes continue to be preferred, from the belief that it is impossible for the officers of government to controvert them. But it is not only the abolition of taxes, or measures calculated for the ease of the inhabitants, or the better government of the country, which give rise to claims of abatement of rent. They are frequently preferred by the zemindars and farmers on pleas of such a nature, that it is difficult to conceive by what rule and on what principle they can be decided without a reference to the actual register of the land and of the revenue. They are generally made on account of the encroachments of a river, or the establishment of a new gunge, or market; or the usurpation of a village by a neighbouring zemindar; and in almost every instance, depend on facts which can only be known by inspecting the accounts; or by an enquiry made upon the spot. To reject them without examination would, in some instances, be injustice to the claimants. To admit them without proof, or to allow a conjectural proportion of the remission demanded, would tend, by shewing the ignorance of the officers of revenue, to encourage new claims and new impositions; and the revenue of a district, if lowered on pleas of a permanent nature, is hardly ever to be restored. But the pos-

session of the accounts of the land, and rent of each village, and of the amount of customs collected at each market, would, in many instances, either prevent causeless applications, or afford the means of investigating them; and in cases where it might be necessary to depute an aumeen, to examine into the truth of the fact alleged, would serve equally as a guide of his enquiries, and as a check upon his conduct. It appears also, that the zemindars and their officers, when left to themselves, at the same time that they raise the rents of the land, and load the generality of their ryots with accumulated taxes, dismember and diminish the value of their zemindaries, by exempting from rent large tracts of land under the name of *bazee zemcen*, as we have already mentioned. We mean not to condemn the principles on which such grants may some times have been made. Indulgences of this kind, when bestowed with moderation, as the reward of merit, or for the relief of indigence, may not only be allowable but useful and necessary. But an account will shew that the zemindars or other officers, trusting to the want of information in government, or improving the opportunity which minority or imbecility of their master affords them, have carried this custom far beyond the bounds of moderation. It will hardly be credited, that in the small district of Mahomedshahy, which pays only rupees 2,90,000 to government, no less than 1,61,000 rupees appear thus to have been exempted from taxation. The very large proportion of land set apart for the maintenance of servants in some zemindaries, gives strong reason to believe, that the name of *chakeran zemcen* has also been used to cover collusive grants, and to diminish the public revenue of a district. If the checks and institutions, which we have before described, were necessary in former times, to prevent abuses of this kind, and for the security of the revenue, they appear much more so at present. The mogul government, from its greater vigor, the undivided authority which it possessed, and the severe examples which it could make of offenders, was able to detect and prevent collusions by means unknown to, and incompatible with, the genius of our government. The dread of the powers

powers with which the mussulman government were thus armed, on the minds of a people long used to submission, was alone sufficient to render the exercise of them seldom necessary. When the English obtained possession of this country, the revenues continued to be collected by the ordinary coercive means, and although the same severities were not practised, the idea of absolute undivided power continued to operate, and the force of that impression is not yet entirely spent. But under the present constitution, where every act of authority, and right of government, is liable to be contested and litigated; it is only perhaps by regular systems and official checks, that the public revenue can be secured: for it is evidently the interest of a zemindar to obtain a remission in the amount, or to evade the payment of the sum assessed on his district. In this case it is often necessary to divest him of the management; and either to collect the rents by officers immediately appointed by government, when it is called a *khas collection*, or to farm it out for a certain sum to be paid into the public treasury. The farmer, or the superior officer of government, stiled *sezawul* or *āimil*, stands in the stead of the zemindar; and receives the revenue from muzcoories, from shaikdars, or from kutkenadars. But without the possession of the accounts and knowledge of the revenue of the district, the interest of the zemindar will prompt him, and his superior influence will always enable him, to obstruct the collections of a sezawul or farmer, in hopes, ultimately, to reduce the government to the necessity of restoring him to the management on his own terms. From all these considerations, and from our sense of the design of the commission on which we were employed, we have endeavoured to render the estimates and accounts of revenue, which we have prepared for the information of the board, as extensive as possible."

THE commissioners then describe the several accounts prepared by them, for the *malgoozary lands*, paying revenue to government; the *ehakcran*, appropriated to the maintenance of officers and servants; and the *bāzce zemeen*, or *lakheraj*, held exempt from public

Concluding remarks of the commissioners

public assessment, under various denominations; and conclude their report with the following remarks. “In the course of this address, and in the explanation which we have given of some of the evils that have arisen from the want of the public accounts, we have pointed out many purposes to which these various materials may be applied; either in the abolition of oppressive or impolitick taxes; in the investigation of pleas for remission or abatement of rent, urged on account of the establishment or removal of a market, the encroachment of a river, or other local causes; in the division of land; in the sale or transfer of portions of a zemindary; and generally, in controlling and checking every department. Our enquiries concerning the relative condition of the great zemindars, and of the muzecoory talookdars who hold under them, will naturally suggest another important use of these accounts. As the rent of each talookdar is there registered, the officers of government, by a summary and intuitive process, may decide on the complaint of exactions made by his zemindar. In the formation of a settlement and on determining on the revenue of any particular district, it is either by comparing the jumma or assessment, and the revenue actually received by government for a number of years, or by inspecting the hustabood or valuation of the district, and the sum which it has actually yielded to the zemindar or farmer, that a judgment of its amount can be formed. The possession of the material, which we have prepared, furnishes this information; and is likely either to induce the zemindar to agree to the assessment proposed; or in case of his refusal, will enable the government to distribute the zemindary into specific divisions, and to collect the rents by farmers, or officers independent of his authority. In either case an attention to the amount of bazee zemeen held by the zemindar or his family, and to the quantity of land appropriated for the use of officers and servants, appears necessary, in determining the jumma of the district, or the establishment and charges requisite for collecting its revenue. It is foreign from our duty and becometh not us to pretend to form a judgment of the amount of
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the assessment to be imposed either on the whole province or on any particular district of Bengal. But it may not here be improper to suggest a few general principles on this subject, drawn from the nature of the materials which we have completed; and from the information we have received in the course of our enquiries. In forming an opinion of the state of a district, and of its improvement and decay, an attention to the accounts of the *hazera*, (subsisting assets,) and *plateka* (rent of unoccupied lands,) for some years past, may be very useful. If the former has been annually increasing and the latter diminishing, it serves to mark the increase of cultivation and improvement, and *vice versa* if the *hazera* appears to be decreasing every year. Where an additional cultivation is attended with an increase in the *niric*, or rate of land-rent, it gives room to believe that the district is in a flourishing state, but if while the *niric* is increased, the country grows less populous, it may be considered as a strong sign that the rent of land is higher than the situation of the district will bear; and unless some other reason can be assigned, the growing depopulation of the country may be justly ascribed to this cause. From the abstract accounts of the increases and decreases, or causes which have served during the last five years to augment or diminish the revenue of a district, some useful conclusions may also be drawn. These causes, according as they are temporary, fixed, or progressive, have either an accidental or permanent effect on the revenue. Thus, if a considerable part of a district pays its rent in kind (comar) and the receipts have been increased or diminished by the dearness or cheapness of grain, or if an uncommon drought has affected the revenue for a particular year, in both instances the cause is plainly of only a temporary nature. But if the amount of revenue has been augmented by the establishment of new villages, or markets, or lessened by the abolition of particular duties, or the encroachments of rivers, these causes are likely to have a fixed and permanent influence on the revenue and district. It is more difficult to explain precisely the nature of progressive causes of increase or decrease, although well understood by every native

Imutsuddie. Where it appears that, at the same time that the cultivation of a country is increasing, the rent of land is also annually growing higher, or, on the contrary that although the rents have been lowered, in order to induce ryots to remain, or to settle on the lands, the country becomes every day less populous, the increase or decrease may be considered as of a progressive nature; and we may be able, probably, to discover its origin in the want, or abundance, of circulation; in the greater, or more limited, vent for the produce of the district; or in other radical causes, which are likely not only to continue to operate, but to gain strength. In considering the influence which the accumulation of taxes has in hastening the decay of particular zemindarries; we have given a strong instance of the progressive steps by which the revenue may diminish from year to year. The application of these conclusions, and of this knowledge, to the purpose of imposing an assessment; and apportioning it to the state and circumstances of a district, is evident. But in those cases, where it may be necessary to grant a remission, there is reason to believe, that unless a proportion of the aboabs, or taxes, on the ryots, be, at the same time, struck off, the indulgence of government, especially in large zemindarries, will seldom be felt by the lower class of people. Before we quit the consideration of the statements and estimates which we have laid before the Board, and the uses to which they may be applied; it may be proper to observe, that the quantity of land, exempted from rent (as will appear by the accompanying abstract,) is so very great, that it appears well to merit particular attention, either to investigate and resume the late grants, or to take measures to check the growth of a practice so injurious and alarming to the public revenue.”*

* The abstract referred to stated the quantity of land held exempt from assessment in the districts to which aumeens were deputed (about two-thirds of the province of Bengal) to be 43,96,095 begahs; besides 12,01,647 begahs of chakeran land, assigned for the maintenance of zemindary officers and servants. Of the latter, 1,43,416 begahs paid a small quit rent, amounting for the whole to rupees 66,049 per annum; the remaining 10,61,430 begahs were not liable to any rent to the zemindars; the rent-produce being appropriated in lieu of wages.

THIRD PART.

SECTION II.

OFFICERS OF REVENUE UNDER PRESENT SYSTEM:

THE following sub-divisions are included in this Section.

1. BOARD OF REVENUE.
2. BOARD OF COMMISSIONERS.
3. COURT OF WARDS.
4. COLLECTORS AND THEIR ASSISTANTS.
5. NATIVE OFFICERS IN THE REVENUE DEPARTMENT.

THE principal authority in the revenue department, after the Governor General in Council, who exercises a general control over this and other branches of the executive government, is the Board of Revenue. At least it was so before the constitution of a Board of Commissioners, with similar powers, for the upper provinces and Benares; and it is still the superior fiscal establishment under government, within the provinces of Bengal, Behar and Orissa. This Board, which is stationed at the presidency, was vested by Regulation 2, 1793, (Section 29,) with "the superintendence of the settlement and collection of the public revenue payable from the lands; and of all other matters entrusted to the collectors." The collectors of the government customs and their deputies, within the provinces of Bengal, Behar, and Orissa, were

Principal authority in the revenue department, after the Governor General in Council.

Constitution and jurisdiction of Board of Revenue, under Regulation 2, 1793, Section 29.

also

also made subject to the authority of the Board of Revenue by Regulation 9, 1810, (Section 7.) The Board was originally composed of four members; besides a member of the government, who, in pursuance of former instructions from the Court of Directors, was nominated president; though it could not be expected that his other important duties would admit of his giving regular attendance at the meetings of the Board of Revenue. The number of members has since been reduced to two, or occasionally three, exclusive of the president; and the several junior members, previously to entering upon the execution of their duties, are required "to take the oath prescribed by Act of Parliament, (viz. the Statute 33. GEO. III. Cap. 52. Section 61*,) for servants of the Company employed in the management and collection of the revenue, before one of the judges of the Supreme Court of Judicature." The primary duties of the Board of Revenue being superintendence and control, they are directed "to be careful that the

Preamble to Regulation 13, 1811. Number of members since reduced.

Oath required to be taken by them.

Regulation 2, 1793, Section 30. Board required to superintend

* The oath referred to is in the following terms:—"I, A. B. do promise and swear, that I will, to the utmost of my endeavours, well and faithfully execute and discharge the duties of an officer of revenue, reposed in and committed to me by the United Company of Merchants of England trading to the East Indies; and that I will not demand, take, or accept, directly or indirectly, by myself or by any other person for my use, or on my behalf, of or from any rajah, zemindar, talookdar, polygar, farmer, renter, or ryot, or from any person paying or liable to pay any tribute, rent, or tax, to or for the use of the said United Company, any sum of money or other valuable thing by way of gift, present, or otherwise, over and above, or besides and except, the actual tribute, rent, or tax authorised to be taken by and for the use of the said United Company; and that I will justly and truly account for, answer, and pay, all the rents, duties, and other revenues and sums of money which shall come to my hands, or to the hands of any person or persons in trust for or employed by me, as an officer of the revenues of the said Company, unto the said United Company. So help me God." By Section 62, of the same statute, it is enacted "that the demanding or receiving any sum of money or other valuable thing, as a gift or present, or under colour thereof, whether it be for the use of the party receiving the same, or for or pretended to be for, the use of the said Company, or of any other person whatsoever, by any British subject, holding or exercising any office or employment under His Majesty, or the said United Company, in the East Indies, shall be deemed and taken to be extortion and a misdemeanor at law, and shall be proceeded against and punished as such, under and by virtue of this act, and the offender shall also forfeit to the King's Majesty, his heirs and successors, the whole gift or present so received, or the full value thereof." By Sections 65 and 66, "every wilful breach of the trust and duty of any office or employment;" and "the making or entering into, or being a party to, any corrupt bargain, or contract, for the giving up or obtaining, or in any other manner touching or concerning the trust and duty of any office or employment," are further declared to be "a misdemeanor at law;" and punishable accordingly.

officers

officers under their authority perform their assigned duties, with regularity, integrity, and assiduity; and they are required to punish the officers under them, as far as the powers vested in them for the purpose may allow, for disobedience or inattention to any regulation printed and published in the manner directed in Regulation 41, 1793, or to any special orders; and to report every such occurrence to the Governor General in Council." To enable the Board to control the public officers acting under them with effect, they are invested with the following powers, for the investigation and punishment of offences committed by any officer subject to their authority, according to their nature and extent. 1. "To summon him to the presidency to explain and justify his conduct; and to suspend him from his office; reporting to the Governor General in Council every instance in which they may exercise these powers." 2. "To impose a fine upon him, not exceeding the amount of his salary for one month." It is at the same time declared, "that any inquiry which the Board of Revenue may make into the misconduct of any officer subject to their authority, or any fine that they may impose upon him, or order which they may pass respecting him, is not to preclude persons who may have been injured by him, from suing him for the injury in any court of judicature to which he may be amenable." The Board are further "empowered to require the personal attendance of any proprietor or farmer of land, or any dependent talookdar, under farmer, or ryot, or any native officer employed under a collector, for the purpose of adjusting any settlement, or examining any accounts, or enquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary. In such cases, the Board are to direct the collector to serve such person with a written notice, under his official seal and signature, specifying the business on account of which his attendance is judged necessary; and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shews satisfactory cause for his non-attendance, as the Board may think

conduct of officers acting under them; and to punish disobedience, or inattention to regulations and orders.

Section 31.
Powers vested in them for this purpose.

Section 33.
In what cases the Board may require the personal attendance of landholders, farmers, ryots, or native officers. Notice to be filed in such cases; and penalty for neglect to appear.

proper to impose. The Board are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper, upon a consideration of the case, and the situation and circumstances in life of the party ; and the amount of the fine shall be levied by the collector, by the process prescribed for the recovery of arrears of revenue. But the Board of Revenue are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakeel.”*

Section 34.
By whom the
Board's orders
to be enforced.

Section 35.
No member of
the Board to ex-
ercise separate
authority, unless
expressly em-
powered.

Preamble to Re-
gulation 13,
1811. Provision
for inspection
of the
members of the
Board.

Section 36.
In what cases
such inspection
may take place.

“ ALL perwānahs, orders, and directions, issued in consequence of resolutions of the Board, are to be sent to the proper executive officers, to be by them enforced.” And no member of the Board, except the president, or acting president (as especially empowered,) “ is to exercise any separate act of authority, unless in cases, in which for the dispatch of business, the Board may think it proper to commit the charge of any special duty to any member separately.” As however it may often be convenient and advisable that one of the members of the Board should superintend in person, and on the spot, the conclusion of settlements, and performance of other duties within their control, the following provisions for this purpose were made by Regulation 13, 1811. “ Whenever circumstances may, in the judgment of the Governor General in Council, or of the Board of Revenue itself, render it advisable that the performance of any of the public duties entrusted by the general regulations to the superintendence of that Board, should be superintended by a member of the said Board in person, and on the spot, one of the members shall proceed to that part of the country in which his presence and services may be required. The Board of Revenue, with the approbation of the Governor General in Council, shall at the same time determine

* A doubt having been entertained whether the Board of Revenue was competent to administer an oath, the question was referred (in 1800) to the Governor General in Council, who considered “ the Board of Revenue fully competent to administer an oath, whenever the public service committed to their charge may render it necessary.”

to what district or districts the authority of the member so proceeding on deputation shall extend. The Board of Revenue, with the sanction aforesaid, will also determine what part of the establishment of their secretary's office shall attend the Member proceeding on deputation, for the purpose of aiding in the discharge of the duties entrusted to him. The member of the Board of Revenue so employed, shall be entitled to exercise all the duties, power, and authority which are or may be vested in the Board of Revenue collectively, within the limits which may be established for his temporary and exclusive control. In like manner, a single member of the Board of Revenue shall, during the period of such deputation, be competent to exercise, at the presidency, all the duties, power and authority, vested in the Board collectively, in the remaining parts of the provinces of Bengal, Behar, and Orissa, including Cuttack; provided however, that when the acting president and junior member of the Board of Revenue shall be both at the presidency, two members shall be required to constitute a regular and legal meeting of the Board. On the termination of any deputation by a member of the Board of Revenue, the correspondence and other documents connected with such deputation shall be carefully deposited in the office of the Board's secretary at the presidency." The Board of Revenue are likewise empowered to depute persons, not being their own members, or the established local officers, for any special duty requiring it. But all deputations ordered by them "are to be immediately reported to the Governor General in Council, with the grounds on which they may have been ordered; and in all instances admitting of a limitation for completing the business of the deputation, a time is to be fixed for the performance of it, beyond which the person deputed is to receive no allowance or compensation, without explaining the cause of the delay to the full satisfaction of the Board."

Section 3.
What officers to attend the member, proceeding on deputation.

Section 4.
What powers to be exercised and duties performed by the member deputed.

And by a single member of the Board, remaining at the presidency.

Section 5.
On conclusion of deputation, correspondence and documents were to be deposited.

Regulation 2, 1793, Section 32.
Board may also depute other persons, not their own members, for execution of particular duties.

THE rules for the permanent settlement of the land revenue of Bengal, Behar, and Orissa, will be stated under the next section; but the following general rules, prescribed for the guidance of the

General rules for the Board's guidance respecting settlement, collections, and ba-

Board

ances, of the
land revenue.

Regulation 2,
1793, Section
36.

What orders
may be issued
for the settle-
ment of khas
lands.

Section 37.
In what cases
security is to be
required.

Section 37.
Restriction on
granting remis-
sions of settle-
ment.

Section 38.
By whom settle-
ment of khas
lands to be
made.

Section 40.
Bundobasty
perwannahs to be
issued on con-
clusion of settle-
ments.

Board of Revenue, with respect to the settlement, collections, and balances, may be here mentioned. "The Board are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be khas, in conformity to the regulations, and any special instructions which may be prescribed to them by the Governor General in Council. In all cases of a settlement being made with or on behalf of zemindars, independent talookdars, or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue. But where lands are let in farm, a malzamin or surety for the punctual discharge of the revenue is to be invariably required. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the Governor General in Council. It is to be observed as a general principle, that the settlement of lands that are or may be khas, is to be made by the collectors under the regulations, and the instructions of the Board of Revenue; but if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the Governor General in Council, with their reasons for recommending it. Upon a settlement being concluded with any proprietor or farmer, conformably to the regulations, the Board of Revenue are to issue the usual bundobasty perwannah to the proprietor or farmer.* The collection of the revenue is committed to the collectors; but the Board of Revenue are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the collectors for any delay or deficiency. The Board are authorized to grant temporary suspensions of the de-

* The rule contained in the following extract of a letter from the secretary to government addressed to the Board of Revenue, and dated the 17th April 1802, may be noticed in this place. "The Vice President in Council is of opinion, that it should be made a general rule to affix a copy of the advertisement, which may be published by the collectors in their respective districts for farming lands, at your secretary's office; and that any proposals which may be tendered in consequence, should be taken into consideration, together with the proposals which may have been received by the collectors."

mands of revenue, whenever it may appear to them indispensably necessary, reporting the sum suspended without delay to the Governor General in Council with their reasons for the measure. But they are not to grant any suspensions beyond the current year. Nor any remissions of balances without the special authority of the Governor General in Council. They are authorized to grant advances of tucavay to proprietors, or farmers, of land, where it shall appear essentially necessary, in proportions not exceeding five per cent on the revenue payable from the lands to government, reporting all such instances to the Governor General in Council. Where a larger sum may be required, his sanction must be previously obtained. The interest to be taken on such advances, is to be one per cent per mensem."

But not beyond the year.

Section 43.
Or to remit balances, without the sanction of government.

Section 44.
To what extent tucavay advances may be granted by the Board.

THE Board of Revenue are further directed to furnish the Governor General in Council "with such annual, monthly, or other accounts, as they are, or may be, required to submit to him:" as well as to observe all special orders which they have received, or may receive, from the Governor General in Council. "They are likewise to transmit to the Governor General in Council all original acknowledgments which may be delivered to them for places they may be directed to restore to foreign nations:" and "to cause separate accounts to be kept of all expenses incurred in reducing rebellious zemindars, or other persons, with a view of obtaining reimbursement from the offenders." These provisions are taken from rules before in force; and were perhaps included, *pro forma*, in Regulation 2, 1793; which further contains detailed rules of proceeding for the Board collectively, and the president, or acting president; but previously to stating these, it should be noticed, that "the Board of Revenue, collectively and individually, are prohibited from being concerned, directly or indirectly, in trade or commerce, (which prohibition is to be understood to extend to the purchase of any goods or commodities in the British dominions in Bengal for the purpose of remitting money to Europe;) or in any house of agency; or in

Section 45.
Board to furnish accounts required by government.

And to observe all special orders of Governor General in Council.

Section 47.
To transmit acknowledgments for places restored to foreign nations.

Section 48.
To keep accounts of expenses incurred in reducing rebellious persons.

Remark on foregoing provisions.

Section 46.
Restrictions on the Board collectively and individually.

the direction, or management of any bank;* or in any transactions for borrowing money with any native revenue officer, or any person responsible for the collection or payment of the public revenue: they are likewise prohibited, without obtaining the previous sanction of the Governor General in Council for that purpose, giving land in farm to any European, directly or indirectly; or accepting the security of a European for any farmer, dependent talookdar, or ryot, or granting, or confirming any grant of malguzarry or lakheraj land; or confirming the succession of any person to such lands; or continuing the pension of any deceased officer, or pensioner, to his family; or making any new general rule whatever."

Policy of the restrictions noticed.

The policy of these restrictions is too obvious to call for any lengthened comment. It is a wise principle to guard, as far as possible, against the counteraction of interest and duty; though an honorable mind would never, if it could, allow the former to prevail against the plain dictates and obligations of the latter; and it cannot be supposed that any member of the Board of Revenue would desire to be engaged in transactions that might eventually bring suspicion upon the integrity of his public conduct. The prohibition against farming lands to Europeans, or accepting their security for landholders, or tenants, without the sanction of government, is consistent with other restrictions, which have been already mentioned†, against the tenure of lands by Europeans, not amenable to the local courts of justice; and was founded upon experience of evil consequences arising from a promiscuous intercourse between the natives of the country, and strangers of different habits and various character, who were often disposed to assume and abuse illegal authority. On the other limitations to the powers of the Board of Revenue it is sufficient to remark, that although, with a view to maintain the high privilege of legislation

* This restriction has been removed by the Act passed in the 47th year of His Majesty's reign "for the Regulation of public banks," &c. By this statute, it is enacted that it shall be lawful for all persons in the service of the Company, to subscribe to and become members of any public banks in India; as well as "to become directors or managers thereof."

† Volume I, pages 177 to 179.

in the hands of government, they are re-trained from "making any new general rule;" they are expressly authorized and directed, by Section 31, Regulation 7, 1799, "if it appear to them, in any case, that a new regulation would be advisable," to prepare the same, in the form prescribed by Regulation 41, 1793; and submit it to the Governor General in Council, "with a letter stating at large the grounds on which it may be proposed; and copies of any documents therein referred to, which may not have been already transmitted."

The following rules are established for the meetings of the Board of Revenue; for regulating their proceedings; and for defining the powers of their president, or acting president. 1, "The Board are to assemble on two fixed days in every week, or as much oftener as the exigency of business may require. Two members are sufficient to form a Board;" or if one only, besides the presiding member of government, be at the presidency, the powers of the Board may be exercised by a single member, (as already stated) under the provisions of Regulation 13, 1811. 2. "Extraordinary meetings are to be held whenever deemed necessary by the president, who, in such cases, is to order the secretary to send a written summons to each of the members." 3. "If a member of the Board should have any material business to lay before them, or communications to make to them, which cannot be taken into consideration on the usual days of meeting, he is to inform the president, and request him to order an extra meeting to be summoned; and the president is to comply with the request. The Board are to keep regular minutes of their proceedings, and report to the Governor General in Council all subjects of importance which may require his sanction, or special instructions, before the execution of any final resolution on them." 4. "The president is to determine what business shall be first brought before the Board, and he is to prescribe the selection and arrangement of it for their consideration. After the papers have been read, he is to propose such resolutions upon them as he may deem proper,

Regulation 7,
1799, Section
31.
Board to pro-
pose any new
regulations,
which they may
think advisable,
in the prescrib-
ed form.

Rules for meet-
ings of Board
of Revenue, re-
gulation of their
proceedings;
and definition
of powers of
president, or act-
ing president.
Regulation 2,
1793, Section
49.
Fixed days of
meetings, and
number of
members to
form a Board.
Regulation 13,
1811, Section 4.
Qualification of
above rule.
Regulation 2,
1793, Section
50.
Extraordinary
meetings, when
to be held, and
by whom to be
ordered.
Section 51.
Cases in which
the president is
to summon a
meeting at the
request of any
of the members
of the Board.

Board to keep
minutes of their
proceedings, and
to refer to the
Governor Gene-
ral in Council,
matters on
which his or-
ders may be ne-
cessary.

Section 52.
President to de-
termine what
business shall be
first brought be-
fore the Board.
And to propose
resolutions;

or specific questions for the opinion of the members.

Opinion of the junior member to be first recorded.

Section 53.
Minutes or suggestions of members to follow, and the majority of voices to decide.

Section 54.
A new proposition respecting the matter in debate how to be discussed.

Section 55.
Rules for cases in which the president may not propose a resolution or question after the papers are read.

Section 56.
President to have the casting vote, where the voices are equal.

Section 57.
Resolution of the majority to be carried into execution. Exception to the rule. Proceedings to be referred to the Governor General in Council at the motion of any member. Letter which is to accompany such references.

Section 58.
Dissent from the resolutions of the majority where to be entered. Dissenting members at liberty to record the grounds of their dissent at the next meeting.

proper, for the consideration of the Board at large; or, he may state specific questions for the opinions of the members, beginning with the junior member, whose opinion shall be first taken and recorded." 5. "After either of these forms have been attended to, any minutes or suggestions that a member may have to offer, are to follow; and the resolutions proposed are to be confirmed, or the questions determined, by the majority of voices." 6. "If any new proposition relating to the business under debate shall arise from the minute or suggestions of any member, it is to be discussed after the first resolutions or questions have been disposed of; and for this purpose the president is to present it for the consideration of the Board." 7. "But if the president, after the papers have been read, should decline proposing any resolutions or questions upon them for the consideration and determination of the Board, any other member may propose, or deliver to the secretary, the resolutions or questions which he wishes to be considered; and the secretary is to read them, that they may be decided upon; the junior member giving his opinion to be first recorded; the other members delivering their sentiments in order; and the president stating his opinion last." 8. "In cases in which there shall be a difference of opinion, and where the voices are equal, the president shall have a casting vote." 9. "The resolution of the majority of the Board, in case of dissentient voices, is to be carried into execution, unless it shall be agreed by the majority to postpone it. The proceedings of the Board are to be referred to the Governor General in Council, at the motion of any member; but all such references are to be accompanied with a letter, stating the substance of the subject discussed, with distinct propositions arising from the opinions given thereon, for the decision of the Governor General in Council." 10. "Dissents from the resolutions of the majority of the Board, are to be entered after the resolutions; but any member who may record his dissent from a resolution of the majority is to be at liberty to deliver his reasons for that dissent at the next, or a subsequent meeting of the Board. Any member also acceding to, or dissenting from any proposed

proposed resolution, may simply record his affirmative or negative at the time, and deliver in the grounds of his vote at a subsequent meeting. But no opinions shall be recorded on the proceedings of the day, unless delivered before the adjournment of the Board, and no alterations made in opinions replied to, without general consent. For the purpose of expediting the dispatch of letters in particular cases in which it may be necessary, the signatures of two members to any letter shall be deemed sufficient, and all letters are to be invariably signed when presented, without any unnecessary detention. Extracts from proceedings, and other inclosures, duly examined and attested, are not to be delayed for the perusal of the members, the secretary being answerable for the accuracy of the extract, and the examiner for the correctness of the copy." 11. "If any particular business should occur to a member, which is not immediately before the Board amongst the current papers selected for their consideration, or expressly referred to therein, he is to communicate it to the president, that it may be brought forward at a proper time, according to his judgment of its importance, on a comparison with that of the subjects selected for a consideration; and, if it should not be discussed at that meeting, the president is required to introduce it as the first subject of discussion at the next." 12. "All papers or accounts referred to the Governor General in Council for orders, are to be accompanied by a letter, explaining summarily the business referred, and stating the opinion of the Board respecting it. And in forming the settlement of lands, whenever it may appear to them necessary to grant an abatement on the former jumma, the amount of the abatement, and the jumma proposed, are to be specified in the body of the letter." 13. "The Board of Revenue are to be particularly careful to preserve their records complete; and for this purpose, they are to direct an annual list to be formed of all the English records in their office, not entered in their books of proceedings, which are to be registered numerically, according to the dates of their receipt or record." 14. "No member of the

Opinions not to be recorded on the proceedings of the day unless delivered before the adjournment of the Board.

Cases in which the signature of two members to a letter shall be sufficient.

Secretary to be responsible that extracts are properly made.

Section 59.
Rule for cases in which any business of importance may occur to a member, that may not be included amongst the papers selected for the consideration of the Board.

Section 60.
Rules respecting references to the Governor General in Council for orders.

Section 61.
Records of the Board to be carefully preserved.

Section 62.

Not member, excepting the president, shall have copies of any papers but his own minutes. Officers of the Board not allowed to take copies of papers for their own use.

Section 63:
Rule for keeping the records complete and ready for inspection.

Section 64:
Board to furnish copies of their proceedings monthly for the Court of Directors and the Governor General in Council.

Section 65:
Special powers of the President.

Section 66:
Officers of the Board to obey the president.

Board of Revenue, excepting the president, shall be allowed to have copies of any of the records, excepting of his own minutes; nor shall any officer of the Board have copies of any of the papers for his private use." 15. "For the purpose of preserving the records complete, and ready for inspection at all times, the members are to attend at the house where the Board assemble, for the purpose of consulting the records, whenever they may find it necessary. But if any member of the Board should occasionally wish to peruse any of the records at his own house, he may do it with the consent of the Board, to whom he is to signify his wish at their meeting, receiving them from, and returning them to, one of the secretaries, who is required to keep a memorandum of their delivery and return. It is to be at the option of the Board, to give or refuse their acquiescence to any such application, which the member making it may record or not as he thinks proper, the object of this restriction being to prevent the loss of the records, or any obstruction to the official business, by an unseasonable removal of them." 16. "On the thirtieth of each calendar month, the Board of Revenue are to submit to the Governor General in Council one complete set of their proceedings for the preceding month, with the usual index and appendix; and as soon afterwards as may be practicable, a second complete set, to be forwarded to the Honorable Court of Directors." 17. "Exclusive of the authority vested in the president of the Board of Revenue, by any of the rules above stated, he is declared to possess the following special powers and privileges; to issue of his own authority, during the interval of the meetings of the Board, such occasional or subsidiary orders as may be necessary for carrying into execution any existing resolutions of the Board, or for the attendance of persons, or for preparing materials for the consideration of the Board, or regarding any matters which the Board may judge it advisable to commit to his separate charge as their executive member." 18. "All European and native officers of the Board are required to obey the orders of the president, in all matters in which

which he is authorized to issue orders." 19. "The president of the Board is empowered to require the collectors, and other subordinate officers, to furnish him with papers, accounts, or information, for the use of the Board, or to cause the attendance of individuals, whose personal appearance they are authorized to require at the Board." 20. "The president is also authorized to have copies of any of the records, or to have the records themselves sent to him, whenever he may require them; one of the secretaries in the latter case minuting their delivery and return." 21. "The president is authorized to adjourn the meeting of the Board from one of the fixed days, to the succeeding fixed day, in case he should from indisposition; or other cause, be unable to attend; but he is not to make two adjournments successively. If he should be unable to attend on the second day fixed for meeting, the senior member present is to preside in his stead." 22. "Whatever powers are declared to be vested in the president, are likewise vested in the acting president for the time being; and in the event of the absence of the president from sickness, or other cause, the senior member present is to preside, and discharge all his functions."

Section 67.
Collectors and subordinate officers to obey the regulations of the president in the cases hereinafter specified.

Section 68.
President may have copies of the records, or the records themselves sent to him.

Section 69.
President may adjourn the meeting to the next fixed day of meeting.

Not to make two adjournments successively. If he is unable to attend on the second day fixed, the senior member present to preside.

Section 70.
Powers of the president vested in acting president for the time being. Senior member to preside in the absence of the president.

THE duties of the Board of Revenue as a court of wards, in the department of customs, and in other particular branches of the revenues, with the powers vested in them to determine upon claims to public pensions not exceeding a certain amount; and other powers and duties appertaining to them, in the general exercise of their control over the collectors and other officers subordinate to them, will be specified under distinct heads. But the following provisions in Regulation 19, 1810, "for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindoo temples, colleges and other purposes; for the maintenance and repair of bridges, seroys, kuttras, and other public buildings; and for the custody and disposal of *nuzool* property, or escheats;" having equal reference to the Board of Revenue, and to the Board of

Duties and powers of Board of Revenue as a court of wards, in the department of customs, and other particular branches of the revenues, will be stated under distinct heads.

of Commissioners for the upper provinces, may be stated in this place."

The general superintendence of land granted for the support of mosques &c. and of bridges, serays, and other public buildings, vested in the Board of Revenue or Board of Commissioners respectively.

§ 2. "THE general superintendence of all lands granted for the support of mosques, Hindoo temples, colleges, and for other pious and beneficial purposes, and of all public buildings, such as bridges, serays, kuttras, and other edifices, is hereby vested in the Board of Revenue and Board of Commissioners, in the several districts subject to the control of those Boards respectively."

These Boards to be careful that endowments for support of such establishments be duly appropriated, and that public edifices be duly repaired.

§ 3. "It shall be the duty of the Board of Revenue, and Board of Commissioners, to take care that all endowments made for the maintenance of establishments of the above description, be duly appropriated to the purpose for which they were destined by the government, or individual, by whom such endowments were granted. In like manner it shall be the duty of those Boards to provide, with the sanction of government, for the due repair and maintenance of all public edifices which have been erected either at the expense of the former or present government, or of individuals; and which either at present are, or can conveniently be rendered, conducive to the convenience of the community."

Buildings fallen to decay, or not calculated to be useful if repaired, how to be disposed of.

§ 4. "In those cases, however, in which any of the Buildings in question have fallen to decay and cannot, from that or other causes, be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Boards

§ THE preamble to the regulation cited notices that "considerable endowments have been granted in land, by the preceding governments of the country, and by individuals, for the support of mosques, Hindoo temples, and colleges, and for other pious and beneficial purposes; and there are grounds to suppose that the produce of such lands is, in many instances, appropriated, contrary to the intentions of the donors, to the personal use of the individuals, in immediate charge and possession of such endowments." It further declares it to be "an important duty of every government to provide that all such endowments be applied according to the real intent and will of the granter;" as well as "to provide for the maintenance and repair of bridges, serays, kuttras, and other buildings which have been erected, either at the expense of government or of individuals, for the use and convenience of the public; and also to establish proper rules for the custody and disposal of *nuzool* property, or escheats."

shall recommend that they be sold on the public account, or otherwise disposed of, as may appear most expedient."

§ 5. " UNDER the foregoing rules, it will of course be incumbent on the Board of Revenue, and Board of Commissioners, to prevent any lands, which have been granted for the support of establishments of the above description, from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons."

Those Boards to be careful that lands or public edifices are not appropriated by individuals for private use.

§ 6. " WHENEVER the Board of Revenue, and Board of Commissioners, may be of opinion that any of the above mentioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work, and forward them to government for its approval."

Estimates of necessary repairs to be submitted to government.

§ 7. " THE general superintendence of all nuzzool property, or escheats, is likewise hereby vested in the Board of Revenue and Board of Commissioners respectively, who will inform themselves fully, through the channel hereafter mentioned, of all property of that description, and report to government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of."

The general superintendence of nuzzool property vested in those Boards.

§ 8. " To enable the Board of Revenue and Board of Commissioners the better to carry into effect the duties entrusted to them by this regulation, local agents shall be appointed in each zillah, subject to the authority, control, and orders, of those Boards respectively."

Local agents to be appointed to enable those Boards to carry into effect the duties hereby entrusted to them.

§. 9. " THE collector of the zillah shall be *ex-officio* one of those agents, with whom the Governor General in Council will

The collector of the zillah to be *ex-officio* an

agent, with such others as may be deemed expedient.

unite such other public officers, whether in the civil, military, or medical branch of the service, as may from time to time be judged expedient."

Each agent is to ascertain the particulars of all endowments, buildings, or nuzzool property, and report to the respective Board.

§ 10. "UNDER the provisions of the present regulation, it will of course be the duty of the agents to obtain full information from the public records, and by personal enquiries, respecting all endowments, establishments, and buildings of the nature of those above described, and of all nuzzool property or escheats; and to report to the Board to whose authority those agents are respectively subject, any instances in which they may have reason to believe that the lands or buildings are improperly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals."

The agents to ascertain and report the names, &c. of the present trustees or managers of such institutions and by what authority appointed.

§ 11. "THE said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers, or superintendents of the several institutions, foundations or establishments above described; whether under the designation of *Mooluwallee*, or any other, and by whom and under what authority appointed or elected; and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations."

The agents to report to the respective Boards all vacancies or casualties which may occur, with full information as to the pretensions of claimants.

§ 12. "THE local agents will also report to the superior boards all vacancies and casualties which may occur, with full information of all circumstances, to enable the boards to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent; or whether the successor have been in former instances elected, and by whom; or whether he have been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation; or by any officer or representative of government, or directly by the government itself?"

§ 13.

§ 13. " IN those cases in which the nomination has usually rested with the present or former government, or with a public officer, or of right appertains to government in consequence of no private person being competent and entitled to make sufficient provisions for the succession to the trust and management, it will be the further duty of the local agents to propose for the approval and confirmation of the superior Board a fit person or persons for the charge of trustee, or manager, and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases."

The Agents to recommend fit persons in cases wherein the nomination is vested in or devolves upon government.

§ 14. " ON the receipt of the report and information required by the preceding clause, the Board of Revenue, or Board of Commissioners, will either appoint the person or persons nominated for their approval; or will make such other provision for the trust, superintendence, and management, as may be right and fit with reference to the nature and conditions of the endowment; having previously called for any requisite further information from the local agents."

The Boards to appoint such persons, or make such other provision for the trust as they may deem fit with reference to the conditions of the endowments.

§ 15. " NOTHING contained in this regulation shall be construed to preclude any individual, who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing, in the mode and form prescribed by the regulations, where government or public officers are parties; or under the general provisions of the regulations; if the suit be brought against a competitor or other private person, for the recovery thereof, in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him."

Individuals deeming themselves injured by any orders passed under this regulation, not precluded from suing for recovery of the rights, or for damages in the manner prescribed in the regulations.

The object of this regulation is solely to provide for the due appropriation of lands granted, or buildings erected, for public purposes.

§ 16. "It is to be clearly understood, that the object of the present regulation is solely to provide for the due appropriation of lands granted for public purposes, agreeably to the intent of the granter, and not to resume any part of the produce of them, for the benefit of government. In like manner it is fully intended, that all buildings erected by the former or present government, or by individuals, for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay, and cannot from that, or any other cause, be conveniently repaired, or which under existing circumstances, can no longer contribute to the accommodation of the community."

Officers of the Board of Revenue, and their general duties.

It is sufficient to add, under the present head, that to enable the Board of Revenue to perform the duties, which have been mentioned, and others devolving upon them, under the rules hereafter stated, they have a secretary, sub-secretary, and assistants, who being covenanted servants of the Company, are appointed by the Governor General in Council. They have also an accountant, who is likewise the deputy accountant general; but, in the former capacity, is under the immediate authority of the Board; furnishes all accounts required by them; and reports upon the accounts transmitted by the collectors; with whom he corresponds upon all matters connected with his department. He has further the official charge of all monthly, annual, and other periodical, or occasional, accounts of the revenues, which are not recorded in the proceedings of the Board of Revenue; and the native officers placed under his direction have the custody of various records, formerly kept in different duffurs, or offices of the khalsa.*

2. BOARD OF COMMISSIONERS.

By Section 27, of Regulation 5, 1795, the Board of Revenue, at the presidency, were vested with the same powers over the collector of Benares, as they possessed over the collectors of Ben-

Regulation 5, 1795, Section 27. Board of Revenue originally vested with same powers.

* Some of these have been mentioned in the introductory section.

gal, Behar, and Orissa, by Regulation 2, 1793. They were also vested with "the superintendence of the settlement and collection of the public revenue payable from the lands, and of all other duties committed to the collectors" of the upper provinces, by Section 28, of Regulation 25, 1803; extended to the conquered provinces situate within the Dooab, or on the right bank of the Jumna, and the district of Bundelcund, by Section 18, of Regulation 8, 1805. But in the year 1807, a commission being formed for the superintendence of the ensuing settlement in the ceded and conquered provinces; (except the territory assigned for the support of the royal family at Delhi, and the zillah of Cuttack; as will be more fully mentioned under the next Section;) the two commissioners appointed for this purpose were, by Section 3, of Regulation 10, 1807, "vested with all the duties, powers, and authority, hitherto exercised by the Board of Revenue in the ceded and conquered provinces, with the exception of the district of Cuttack," which was left subject to the control of the Board of Revenue as before. And it being subsequently judged advisable to render the establishment of the Board of Commissioners in the upper provinces permanent, as well as, in consideration of the more contiguous situation of the province of Benares, to invest them with the control of the land and sayer revenue, the customs, and mint, of that province, the following provisions for this purpose were made by Regulation 1, 1809. § 2. "The Board of Commissioners in the upper provinces is hereby declared to be permanent." § 3. "All the duties, powers, and authority, at present exercised under the existing regulations by the Board of Revenue in the province of Benares, shall be transferred to the Board of Commissioners from the first of the ensuing month of March." § 4. "All the duties, powers, and authority, at present exercised by the Board of Trade in the province of Benares, with respect to the control of the customs, in that province, shall be transferred to the Board of Commissioners from the date specified in the preceding Section." § 5. "The Board of Commissioners shall be in-

ers in Benares, as in the lower provinces. Reg. 25, 1803, Section 28; and Reg. 8, 1805, Section 18. They had also similar powers in the upper province.

Reg. 10, 1807, Section 3. But their authority in the upper provinces transferred to a commission appointed for the settlement of these provinces, in 1807.

Preamble and Section 1, Reg. 1, 1809. And the Board of Commissioners made permanent, in 1809.

Section 3. Their authority extended to the province of Benares.

Section 4. And to the department of customs in that province.

Section 5.

Mint at Benares placed under their control.

vested, from the first of the ensuing month of March, with a general control over the mint established at Benares."

Duties of secretary and accountant to the Board of Commissioners, and what rules applicable to the general functions of this Board.

Reg. 5, 1795, Section 31. Original rules for requiring security from landholders with whom the settlement might be made in Benares.

Reg. 7, 1807, Section 2. Done away by this section, which declares the lands to be sufficient security.

What modifications of stated rules for Board of Revenue are now applicable to Board of Commissioners for Benar s.

Reg. 5, 1795, Section 33.

THE Board of Commissioners, thus constituted, have a secretary, and an accountant, who, by Section 3, Regulation 10, 1807, were required to perform "the duties hitherto performed by the secretary and accountant to the Board of Revenue;" and under the general terms of that Regulation and Regulation 1, 1809, the rules prescribed for the guidance of the Board of Revenue must be considered applicable to the Board of Commissioners, unless superseded or modified by other express provisions in the Regulations enacted for Benares, or the upper provinces. Section 31, of Regulation 5, 1795, whereby "in all cases of a settlement being made with, or on behalf of, talookdars, zemindars, puttecdars, or other actual proprietors of land," in the province of Benares, besides the declared responsibility of their lands "a malzamin, or surety, for the punctual discharge of the revenue, is to be invariably required," was, in the first instance, a special provision, for this province, modifying the rule established in the lower provinces by Section 38, Regulation 2, 1793, which declared the lands to be sufficient security, when the settlement might be made with the proprietors; and required security, when the lands might be let in farm only. But this distinction, between Benares and the lower provinces, has been since done away by Section 2, of Regulation 7, 1807, which directs, that the security before required from the landholders in the province of Benares, on their becoming huzzoory, shall not be "required or taken in future; the lands themselves being deemed sufficient security for the public revenue." And I am not aware of any existing modification of the rules, which have been stated under the head of "Board of Revenue," as now applicable to the Board of Commissioners, with respect to the province of Benares, except the substitution, (for Section 40, Regulation 2, 1793,) of Section 33, Regulation 5, 1795, to the following effect: "upon a settlement being concluded with any proprietor, or farmer, conformably to the regulations, the collector

tor is to receive from him the usual caboolant, and to sign and deliver the pottah in conformity thereto, after it shall have been attested by the seal and signature of the rajah, in pursuance of the agreement to that effect, concluded between the rajah and the resident, under date the 17th of October 1794." The agreement referred to in this section will be more particularly mentioned under the head of "Settlement of Benares." A rule still in force, for the settlement of the upper provinces, whereby it is directed, that "persons of every description, whether proprietors or not, shall give security equal to one fourth of the stipulated amount of their annual engagements," will likewise be specified, with other rules for the periodical settlement of those provinces, under the appropriate head.

Pottahs to landholders and fueder farmers to bear seal and signature of the rajah of Benares.

Reg. 27, 1803
Section 53,
Clause 1c.
Rule for requiring security from landholders, as well as others, with whom the periodical settlement is made in the upper provinces.

3. COURT OF WARDS.

MANY instances having occurred of minors, females, and other landholders, who were incompetent to the management of their own estates; being reduced to ruin by the misconduct of the agents to whom the management of their concerns was committed; minors also being often brought up in ignorance and dissipation, by the persons entrusted with the care and education of them, with a view to engross the management of their affairs, when they might become of age; the Governor General in Council, on the 28th August 1797, determined to constitute the Board of Revenue, a court of wards; with powers to superintend the conduct, and inspect the accounts of the managers of such persons as, by the rules for the decennial settlement of Bengal, Behar, and Orissa, were declared to be disqualified for the management of their own lands; and with instructions to see that any of them who were minors, should receive an education suitable to their rank and circumstances in life, so as to qualify them for the future management of their own concerns. For the guidance of the Board of Revenue, as a court of wards, and for the direction of the officers acting under them in this capacity, certain rules were enacted, and printed, with translations, on the 15th July 1791;* which

Preamble to Reg. 10, 1798.
Reasons for establishing a court of wards.

* See COLEBROOKE'S digest, Vol. III. page 298.

were

Notice of Regulations subsequent to Regulation 10, 1793.

Jurisdiction of court of wards not yet extended to Benares.

But it has been established in the upper provinces.

And in Cuttack.

Lower provinces, Reg. 10, 1795, § 1. Upper provinces, Reg. 53, 1813, § 3. To what persons and estates the superintendence of the court of wards extends.

were re-enacted, with amendments, in Regulation 10, 1793. Additional provisions for the court of wards, in the lower provinces, were enacted by Regulations 26 and 50, 1793; 55, 1795; 3 and 7, 1796; and Section 26, of Regulation 7, 1799. The jurisdiction of the court of wards has not been yet extended to the province of Benares; though provision is made for it by the seventh clause of Section 7, Regulation 5, 1795, which declares it to be the duty of the collector of that province "to execute the instructions of the court of wards, regarding disqualified landholders and their estates, whenever the jurisdiction of that court shall be extended to Benares." But under Regulation 52, 1803, and Section 29, of Regulation 8, 1805, the Board of Revenue formerly, and the Board of Commissioners for the upper provinces since their appointment in 1807, have exercised the powers, and performed the duties, of a court of wards, in the provinces ceded by the Nuvab Vizeer, Doulut Rao Sindheea, and the Peshwa, in the same manner, as in the lower provinces; the rules for which have also been extended to Cuttack, by Section 36, of Regulation 12, 1805. An exception to this general remark, respecting one description of disqualified landholders, in all the ceded and conquered provinces, will be noticed in the sequel.

THE superintendence of the court of wards, in both the lower and upper provinces, extends to the persons and estates of all proprietors of entire estates, paying revenue immediately to government, who are, or may be of the following descriptions. 1. "Females, not deemed competent to the management of their own estates." 2. "Minors, idiots, lunatics, or others rendered incapable of managing their estates by natural defects or infirmities of whatever nature." In the lower provinces, the jurisdiction of the court of wards originally included likewise all proprietors of entire estates paying revenue immediately to government, "who are, or may be, deemed disqualified, on account of contumacy, or notorious profligacy of character;" and in the upper provinces and Cuttack, it still includes all proprietors of such estates, "who

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are, or may be deemed disqualified on account of notoriously bad character." Reasons of policy may have suggested the expediency of reserving to government a discretion in excluding particular persons, of known character, from the management of their estates and consequent local influence, in newly acquired provinces, situate, for the most part, at a distance from the presidency. But no reason of this nature requiring a continuance of the disqualification originally established in Bengal, Behar, and Orissa, "on account of contumacy, or notorious profligacy of character;" and experience having shewn that the judicial enquiry, ordered to establish these grounds of disqualification, was open to serious objections, as will be more fully stated in noticing the exceptions to the general rule for concluding a permanent settlement of the above provinces with the landholders, such exceptions, as far as they related to "persons whom the Governor General in Council might deem disqualified on account of contumacy, or notorious profligacy of character," were revoked and done away by Section 2, of Regulation 7, 1796, which further declared "the provisions made in Clause 4, Section 5, Regulation 10, 1793, for the process to be observed in establishing these grounds of disqualification," to be no longer in force,

Preamble to
Reg. 7, 1796.
Reasons for re-
voking part of
a general rule of
disqualification
in the lower pro-
vinces.

Section 2,
And exceptions
to settlement on
account of con-
tumacy, or no-
torious proflig-
acy, done away.

To prevent any misconstruction of the rule declaring the superintendence of the court of wards to include all disqualified *proprietors of entire estates, paying revenue to government*, it is added, that by this designation is meant "every such disqualified person who may be the sole proprietor of an estate; and any two or more persons, being proprietors of the whole of any estate, both or all of whom may be so disqualified." And further, that "the superintendence of this court is not to extend to proprietors of estates not paying revenue immediately to government; nor to joint proprietors of estates paying revenue immediately to government, both or all of whom may not be of the descriptions specified."*

Lower provin-
ces, Reg. 10,
1793, § 2. Upper
provinces, Reg.
52, 1803, § 3.
Who are meant
by disqualified
proprietors of
entire estates,
paying revenue
to government.

Reg. 10, 1793,
§ 3. Reg. 52,
1803, § 4.
To whom the
superintendence
of the court
does not extend.

Another

* The provisions of Regulation 1, 1800, for the appointment of guardians by the courts of justice, in certain cases, to minors, lunatics, and idiots not within the jurisdiction

Preamble to
Reg. 3, 1796.
Limitations oc-
casioned by an
abuse of the pri-
vileges given
to disqualified
landholders
who are not
liable to arrest,
or confinement,
nor their lands
to sale, for ar-
rears of reve-
nue.

Lower provin-
ces, Reg. 3, 1796,
§ 2. Upper pro-
vinces, Reg. 52,
1803, § 7.
Ordinary jurif-
diction of court
of wards restric-
ted to estates
devolving to
disqualified
landholders by
inheritance.

Another limitation of the ordinary jurisdiction of the court of wards was found requisite, in consequence of an abuse of the privileges enjoyed by disqualified landholders who are wards of that court. * The lands of such are not liable to sale, nor their persons to arrest and confinement, for arrears of the public revenue, incurred whilst their estates are under the management of the court of wards. This exemption induced certain individuals, whose estates were unproductive, to transfer them, really or nominally, to their minor sons, in order to bring them under the superintendence of the court of wards; and in the same manner any person, whose estate might be impoverished by mismanagement, or other cause, so as to be inadequate to the payment of the public assessment upon it, might compel government to undertake the management of it, and exonerate himself from responsibility for the revenue engaged for, by a real or fictitious transfer to disqualified landholders. * To guard against this perversion of a measure, intended for the security of landed property which might devolve in the regular course of inheritance to persons not competent to the management of it, the following provision was made by Section 2, Regulation 3, 1796; and re-enacted for the upper provinces, in Section 7, Regulation 52, 1803. "The ordinary jurisdiction of the court of wards is declared to extend to such estates only as devolve to disqualified landholders in the regular course of inheritance, on the demise of the party from whom they inherit the same. All landed estates, whether subject to, or exempt from, the payment of revenue, which have or may become the property of any disqualified landholder, by purchase, gift, or in virtue of any other right excepting that of inheritance as aforesaid, are declared exempt from the jurisdiction and authority of the court of wards; and, if subject to the payment of public revenue, shall be liable to sale for arrears thereof, and all other demands on the part of

of the court of wards, have been mentioned in vol. 1, page 204. They are extended to the upper provinces by the eighth, and succeeding clauses, of Section 29, Regulation 8, 1805.

government,

government, in the same manner as if the proprietor or proprietors were not under any disqualification. Provided, however, that it shall be competent to the Governor General in Council to commit to the charge of the court of wards any estate paying revenue to government, being the sole property of any disqualified person, or of any two or more persons, both or all of whom may be disqualified, although the same shall not have descended to such person or persons in the regular course of inheritance as aforesaid, and also any lakheraje lands, belonging to such proprietor or proprietors, whenever the same shall appear to him for the interests of government and the proprietor or proprietors; and such estate and lands, so committed to the charge of the court of wards, shall be exempt from sale for arrears of revenue accruing whilst they shall be under the charge of the court, and shall be considered, in all respects, as far as regards the management of them by the court, the same as if they have devolved to the proprietor or proprietors in the regular course of inheritance as aforesaid; and the proprietor or proprietors shall, in all respects, be treated by the court accordingly."

But discretion referred to Governor General in Council, of committing other estates belonging to disqualified landholders to charge of the court.

Estates so committed, exempt from sale for arrears of revenue accruing, whilst under charge of the court of wards.

"THE collectors of the revenue are directed to ascertain and report to the Board of Revenue, or to the Board of Commissioners in the upper provinces, what proprietors of land in their respective zillahs may come within the specified descriptions of disqualified landholders subject to the authority of the court of wards; and the following rules are prescribed for the guidance of the collectors and court of wards; for ascertaining the existence of the stated ground of disqualification in the first instance; and for enabling proprietors, whose ground of disqualification may be removed, to recover the management of their estates. *First.* If a proprietor of land be reported disqualified solely from being a female; the court of wards are either to take her estate under their care, or, if fully satisfied that she is competent to the management of her own estate from capacity and habits of business, may invest her with it, on her executing the same engagement as other qualified

Lower provinces, Reg. 10, 1793, § 4. Upper provinces, Reg. 58, 1803, § 8. Duty of collectors to report what persons are subject to the authority of the court of wards.

Rules for their guidance and that of the court of wards.

Lower province, Reg. 10, 1793, § 5; Clause 1, and Reg. 50, 1793, § 3 and 4. Reg. 58, 1803, § 9, Clause 1; Upper provinces, Reg. 58, 1803, § 9, and Reg. Clause 1; 8, 1805, § 27, Clauses 3 and 4.

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If the disqualified landholder be a female competent, or not, to the management of her estate.

Lower provinces, Reg. 10, 1793, § 5. Clause 3. Upper provinces, Reg. 58, 1803, § 9, Clause 3. As a minor.

lified proprietors, after which her estate is responsible for the revenue assessed upon it; and she is not considered a ward of the court. In either case however, an immediate report is to be made to the Governor General in Council, with the grounds on which the female proprietor may be deemed competent to the management of her estate, or otherwise. *Second.* "If a collector shall report a proprietor of land to be disqualified, on the ground of minority, the court of wards, provided they shall see no reason to doubt the nonage of the proprietor, shall take the estate under their care, and report the circumstance to the Governor General in Council. If a collector shall report any proprietor to be a minor, and the proprietor, or any person on his behalf, shall deny that he is under age, such proprietor or person shall be at liberty to represent the circumstances to the court of adawlut of the zillah wherein the estate may be situated, the judge of which shall forward the representation to the Sudder Dewanny Adawlut, which court shall issue a precept, under the seal of the court, and attested by the register, to the judge of the zillah, or to the provincial court of appeal, to call the proprietor before the court, and ascertain his age, by the evidence, on oath, of not less than three credible persons, well acquainted with him, and also by such other enquiries as may appear to the court calculated to ascertain the truth; and certify its proceedings, including any representations or evidence which the proprietor, or any person on his behalf, may have to adduce, with its opinion on the case, to the Sudder Dewanny Adawlut; which court shall determine whether such proprietor be a minor or not. The decision of the Sudder Dewanny Adawlut shall be final; and the court shall certify a copy of its decision to the Governor General in Council; who will order the estate to be put under the charge of the court of wards, or not, according as the proprietor may be adjudged by the Sudder Dewanny Adawlut to be a minor, or otherwise." *Third.* "If a proprietor of land shall be deemed disqualified, on the ground of lunacy, idiotism, or other disqualifying natural defect or infirmity, the court of wards shall order the collector to re-

present

Reg. 10, 1793, § 5, Clause 3. Reg. 48, 1803, § 9, Clause 3. As a lunatic, idiot, or dis-

present the circumstances, through the vakeel of government, to the court of adawlut of the zillah, the judge of which shall transmit a copy of the representation to the Sudder Dewanny Adawlut. This court shall issue a precept to the court of appeal of the division, or to the judge of the zillah within the jurisdiction of which the proprietor may reside, to bring him before the court, to ascertain his actual state by ocular proof; and the court shall further take the declaration, upon oath, of no less than three credible persons acquainted with the party, setting forth their opinion of his condition, with the grounds of it. The court shall transmit all its proceedings, with its opinion on the case, to the Sudder Dewanny Adawlut; which court shall determine finally whether the stated ground of disqualification be well founded, or not; and certify a copy of its decision to the Governor General in Council; who will order the court of wards to take the estate of the proprietor under their care, or not, according as the proprietor may be adjudged by the Sudder Dewanny Adawlut to be disqualified, or otherwise." *Fourth.* "If a proprietor of land (*in the ceded or conquered provinces to which this rule is exclusively applicable**) shall be deemed disqualified, on the ground of notoriously bad character, the court of wards shall instruct the collector to submit a statement of the circumstances, through the vakeel of government, to the judge of the adawlut of the zillah, who shall forward it to the Sudder Dewanny Adawlut. This court shall issue a precept to the judge of the zillah, or to the provincial court of appeal, to enquire into the circumstances of the case, in the presence of the party, or his vakeel, who are respectively to be allowed to produce any evidence which they may have to adduce. The court shall report the result of its proceedings, with its opinion on the case, to the Sudder Dewanny Adawlut;

Reg. 52, 1803,
§ 9, Clause 4.
If deemed to be
disqualified by
notoriously bad
character.

* The conquered district of Cuttack is not expressly included in this rule, cited from a regulation for the upper provinces. But a similar provision was included in the Fourth Clause of Section 5, Regulation 10, 1793, before its repeal by Regulation 7, 1796; and landholders of notoriously bad character being disqualified by the proclamation of 15th September 1804, relative to the settlement of Cuttack, (vide Section 4, Regulation 12, 1805,) they appear to fall within the jurisdiction of the court of wards, as defined by Section 2, Regulation 10, 1793.

which court shall finally determine whether the stated ground of disqualification be well founded, or not; and report its decision to the Governor General in Council; who will order the estate to be committed to the charge of the court of wards, or not, according as the proprietor may be adjudged, by the Sudder Dewanny Adawlut, to be disqualified, or otherwise." *Fifth.* "Persons not born in a state of idiotism, but who may have been declared by the Sudder Dewanny Adawlut disqualified as lunatics, shall be produced annually before the judge of the adawlut, in the jurisdiction of which they may reside, or oftener if he shall think fit, in order to ascertain whether they be restored to sanity or otherwise; and if, in any instance, the ground of disqualification shall appear to the judge to be completely removed, he shall immediately report the same, with a full relation of the circumstances of the case, to the Sudder Dewanny Adawlut, which court shall finally determine, whether the ground of disqualification be removed, or not. The court shall communicate its decision to the Governor General in Council, who will order the court of wards to deliver over charge of the estate to the proprietor, or not, according as the ground of his disqualification may be adjudged by the court removed, or otherwise." *Sixth.* "Any person who may have been adjudged disqualified, on any of the grounds specified in Clauses Second, Third, or Fourth, and who may deem the ground of his disqualification removed, shall be at liberty to represent the circumstances to the judge of the adawlut of the zillah, who shall forward the representation to the Sudder Dewanny Adawlut. This court shall issue a precept to the judge of the zillah court, or to the provincial court of appeal, to enquire into the case, and to receive such evidence, as the disqualified proprietor may have to offer in support of his representation. The court shall report the result of its enquiry, with its opinion thereon, to the Sudder Dewanny Adawlut, which court shall determine finally, whether the ground of disqualification be or be not removed, and report its decision to the Governor General in Council, who will order the court of wards to restore the

Reg. 10, 1793,
§ 5, Clause 5,
Reg. 25, 1803,
§ 9, Clause 2.
Further process
in the case of
lunatics.

Reg. 10, 1793,
§ 5, Clause 6,
Reg. 25, 1803,
§ 9, Clause 6.
Process allowed
to persons who
may consider
the ground of
their disqualifi-
cation to be
removed.

the proprietor to the management of his lands, or not, according as the ground of disqualification may be adjudged by the Sudder Dewanny Adawlut to be removed, or otherwise."

THE trusts of manager for, and guardian to, disqualified lands are considered altogether distinct; though in some instances, (as hereafter specified,) they may be vested in the same person; and the following rules, concerning managers and guardians, (including also some provisions of a more general nature,) are founded upon this distinction. 1. "Where the trusts of manager and guardian are vested in different persons, the former shall have the care of the estates, real and personal; the latter, the care of the person, maintenance, and if a minor, the education of the ward." 2. "The manager, who is to be denominated *serberakar*, shall be chosen by the collector, subject to the approbation of the court of wards, and his commission shall be signed by the collector, and authenticated by his official seal. In recommending persons for this trust, capacity for the business, goodness of character, and sufficient responsibility, are to be particularly attended to." It was added in the original rule, that "after these considerations a preference is to be given to the legal heirs to the estate, or other near relations of the proprietors, and in the event of there being no heirs or relations of this description, to a creditable servant of the family." But experience having shewn, that the managers elected under this rule were, in general, disregarding of the public interest in the realization of the revenue, assessed upon the estates committed to them, (for which the lands were not held answerable,) this provision was revoked by Section 26, of Regulation 7, 1799, and the following substituted for it. "The managers of the estates of disqualified landholders shall be chosen, without any regard to their connection with the proprietors, or to the will of the disqualified proprietors themselves in the election of such managers, who are to be considered, in every respect, the officers of government, acting under the collectors; and the latter will be held responsible for the nomination of proper per-

Reg. 10, 1793, § 6. Reg. 52, 1803, § 10. Trusts of manager and guardian distinct; but may be vested in the same person.

Reg. 10, 1793, § 7. Reg. 52, 1803, § 11. Trust of each when vested in different persons.

Reg. 10, 1793, § 8, and Reg. 7, 1799, § 26, Upper province, Reg. 52, 1803, § 18. Rule for selection and appointment of managers.

Original rule for a preference to heirs and other relations of the family.

Reason for revoking this rule.

And rule now in force under Section 26, Reg. 7, 1799.

Reg. 10, 1793,
 § 9. Reg. 52,
 1803, § 13.
 Security to be
 given, and ob-
 ligation ex-ec-
 uted, by the ma-
 nager.

sons, both as to character, and capacity for the trust." 3. "The manager, previous to the receipt of his commission, shall give security for his appearance during the continuance of it, and shall execute the following obligation " I, A. B. having voluntarily taken on myself the management of the estate of C—, disqualified proprietor of D—, do hereby solemnly promise and engage to manage the said estate diligently and faithfully, for the said proprietor; to use every means in my power to improve the same for his or her benefit; and to act, in every respect, to the best of my judgment, for his or her interest, in like manner as if the estate were my own, and I were acting for myself. I also promise and engage to render a true and just account of whatsoever may be received by me from, or on account of, the estate committed to my management; and in the event of its being proved, that I have been guilty of any embezzlement, or of any abuse of trust, injurious to the property of the abovementioned proprietor, I do hereby bind myself, my heirs and successors, to make good treble the amount of the embezzlement or injury so proved against me. I further promise and engage to adhere strictly to such regulations as may be passed for the guidance of managers by the Governor General in Council, and to such orders as I may receive from the court of wards; and to derive no personal advantage whatever, directly or indirectly, from the trust committed to me, beyond the allowance by them granted to me." 4. "An allowance to the manager, proportionate to the extent of his trust, and adequate to a full compensation for his trouble, shall be proposed by the collectors, and fixed by the court of wards: and if it be proved to the satisfaction of the court of wards, that any manager shall have appropriated to his own use, directly or indirectly, any sum of money or other property, above his fixed allowance, he is declared liable, for such embezzlement, to the fine specified in his obligation, besides dismissal from his trust; and the fine shall be appropriated to the benefit of the estate under his charge." 5. "An establishment of necessary officers, to act under the manager, shall also be proposed by the collectors, and fixed by the court

Reg. 10, 1793,
 § 10. Reg. 52,
 1803, § 14.
 Allowance to
 manager; and
 penalty for any
 embezzlement
 proved against
 him.

Reg. 10, 1793,
 § 11. Reg. 52,
 1803, § 15.
 Establishment
 of officers to
 act under the

court of wards. The persons to be employed on this establishment, shall be nominated by the manager himself, but approved by the collector, who may object to such as may appear to him disqualified by character or otherwise, and require the manager to appoint others. These orders shall be considered applicable to the manager's sudder establishment, and also to his mofussil establishment, in estates of considerable extent, where mofussil officers may be necessary. Any officer, sudder or mofussil, who may be proved, to the satisfaction of the court of wards, to have appropriated to his own use, directly or indirectly, any sum of money or other property, beyond his fixed allowance, shall be deemed guilty of embezzlement, and liable to the same fine as the manager, in similar cases, besides dismissal from his office." 6. "In cases in which it shall appear to the court of wards, that the produce of the estate of a disqualified proprietor is insufficient to provide for the expense of a separate establishment for the management of it, the court are empowered to take such measures, as from the circumstances of the case may appear to them to be best calculated for providing for the security of the public revenue, and the maintenance of the proprietors of the lands." 7. "In cases in which, from the contiguity of a number of small estates, belonging to disqualified proprietors, two or more of them can be conveniently superintended by one manager, the court are empowered to entrust as many of the estates to the management of the same person, as may appear to them advisable." 8. "An allowance of ten per cent, on the public revenue assessed, (under the general rules of assessment,) on the lands of disqualified proprietors, or of ten per cent, on the actual revenue paid to government, in the event of the whole of the assessment not being realized; shall be fixed for the support of the proprietors; and of such persons of their families as may be entitled to receive a provision from them; and the appointed manager of such lands shall pay this allowance monthly, in proportion to his actual monthly payments of revenue to the collector, and no further. Instead of paying the whole of his receipts to the collector, he shall pay the monthly kists of

manager; and
penalty for em-
bezzlements by
them.

Lower provin-
ces, Reg. 50,
1793, § 2. Up-
per provinces,
Reg. 8, 1805,
§ 29, Clause 2.
Provision when
produce of the
estate may be
insufficient for
expense of a se-
parate establish-
ment.

Reg. 50, 1793,
§ 6. Reg. 8,
1805, § 29,
Clause 6.
In what case
two or more es-
tates may be
placed under
the same mana-
ger.

Reg. 10, 1793,
§ 12. Reg. 52,
1803, § 16.
Provision for
support of dis-
qualified land-
holders; and
general rule for
appropriation
of the manager's
receipts.

government's revenue only to the collector, or such part thereof as he may be able to discharge from his collections, after defraying the charges of his approved establishment and the allowance of the proprietors; but he shall deliver a monthly account current of his receipts and disbursements to the collector; who shall audit the disbursements therein specified, and see that the receipts, after defraying the necessary charges, and providing the authorized allowance of the proprietor, have been fairly appropriated to the payment of the revenue due to government. As the lands of disqualified proprietors are not held answerable for the payment of the revenue assessed thereon, in the event of the neat collections of any year proving inadequate to the payment of the fixed assessment, in addition to the allowance of the proprietor, and of there being a surplus collection in any future year, the collector shall take care that such surplus is appropriated to the discharge of the arrear due to government, and the proportion of the proprietor's allowance; which must also, according to the rule laid down, be at the same time in arrear; or, if no such balance be outstanding, he shall see the surplus expended by the manager for the improvement of the lands, or otherwise for the benefit of the estate under his charge." 9. "By the foregoing rule, ten per cent on the revenue assessed, or realized, is fixed as the general allowance for the support of disqualified proprietors, and of such persons of their families as may be entitled to receive a provision from them; but as, in some instances, this allowance may be more than adequate to the expense of suitably maintaining and educating minors, or maintaining other disqualified proprietors, as well as of making a provision for their relations entitled thereto; or, on the other hand, may not be sufficient for these purposes, in some instances, where there may be other funds arising from lakheraj lands, or other resources independent of the malguzarry lands, which might be appropriated thereto; the collectors are vested with a discretionary power to reduce the ten per cent allowance, in the former case, and to increase it, in the latter, as on consideration of the rank and circumstances of the parties and the amount

Reg. 10, 1793, § 13. Reg. 58, 1803, § 17. Discretion vested in the collectors under regulations, to reduce, or increase, in certain cases, the allowance fixed by the preceding rule, for support of the landholders and their families.

amount of their allowances and other income, they may think proper. They shall, however, report any instances of the exercise of this power, in their monthly communications to the court of wards; and, previous to authorizing any increase of the fixed allowance, shall ascertain with accuracy, that there are lakheraj lands, or other resources independent of the malguzarry lands, fully adequate to make good the same; without which, no excess shall be admitted, unless the Governor General in Council shall think proper to grant a dispensation from the general rule, in any particular case which may appear to require it. In the event of any reduction of the allowance fixed for the support of disqualified proprietors, the difference shall be applied by the manager to the benefit of the estate under his charge; to which purpose he shall also apply the income arising from resources independent of the malguzarry lands, which the collector, under the discretion above vested in him, may judge unnecessary for the education or maintenance of the proprietors, and the necessary provision of their relations entitled thereto." 10. "Where a distinct guardian may be appointed, the manager shall pay to him the amount of the allowance fixed for the maintenance or education of the proprietors, and of the provision for persons of their families entitled thereto, as well as the amount of any resources independent of the produce of the malguzarry lands, which the collectors, under the discretion vested in them by the foregoing article, may think it proper to allot for these purposes." 11. Agreeably to the distinction laid down in the first rule, "the manager shall have the entire care of the estate, real and personal. He will therefore have the exclusive charge of all lands, malguzarry or lakheraj; as well as of all houses, tenements, goods, money, and moveables of whatever nature, belonging to the proprietor, whose estate may be committed to his charge; excepting only the house wherein such proprietor may reside, the moveables wanted for his or her use, and the money allowed for the support of the proprietor, and of his or her family entitled to a provision, which shall be left to the care of the guardian, where distinct guardians may

Reg. 10, 17936
§ 14. Reg. 50,
1803, § 18.
Payments to be
made to the
guardian when
distinct from
the manager.

Reg. 10, 17936
§ 15. Reg. 50,
1803, § 19.
Property to be
entrusted to the
manager and
guardian respec-
tively, and in-
ventory to be
signed by each.

be appointed. Both managers and guardians, on their receiving charge of any property, shall sign an exact inventory of the same, which shall be deposited in the treasury of the collectorship."

Reg. 10, 1793,
§ 16. Reg. 52,
1803, § 20.
Manager to act
for the benefit of the
proprietor. But
restricted in
grant of leases.

12. "The manager, agreeably to the terms of his obligation, shall manage the estate committed to him, diligently and faithfully, for the benefit of the proprietor; and, in every respect, shall act to the best of his judgment for the proprietor's interest, in like manner as if the estate were his own. In instances, however, where he may act for a proprietor under age, not otherwise disqualified, he shall not grant any lease extending beyond the minority of the proprietor, (or beyond the life of the proprietor, in the lower provinces;)* or contrary to the regulations in force; nor dispose of any part of the permanent property committed to his custody, without the sanction of the court of wards." 13. In addition to the monthly account current required in the eighth rule, "the manager, at the expiration of every year, shall deliver to the collector an annual account current of his receipts and disbursements, upon oath, with vouchers for the latter, (unless the court of wards shall be satisfied, that it will be for the benefit of their general trust to admit the manager to deliver in such accounts, under a solemn declaration of their being true and faithful accounts, in which case they are empowered to receive the accounts under such declaration, instead of an oath,) and the collector shall audit the disbursements, and take care that the whole of the surplus receipts be duly appropriated, in the manner specified in the above rule."

Reg. 10, 1793,
§ 17. Reg. 52,
1803, § 21.
Annual account
to be delivered
by manager;
and audited by
the collector.

* In the 14th article of the regulations for the court of wards, in the lower provinces, passed the 15th July 1791, it was provided, that "the manager, in instances, where he may act for a proprietor under age, not otherwise disqualified, is not to grant any lease extending beyond the period of his minority; nor is he, in any instances, to grant a lease extending beyond the life of the proprietor." The clause, restricting leases in a minor's estate to the period of his minority, being omitted in Section 16, Regulation 10, 1793, a reference on the subject was made by the court of Sudder Dewanny Adawlut to the Governor General in Council, who informed the court, on the 5th January 1798, that it was "the intention of this regulation to do away the restriction contained in the former regulations, with regard to granting leases beyond the term of minority; and to substitute in lieu of it, the restrictions contained in Regulation 44, 1793," which prohibited all leases, and rent engagements for a term exceeding ten years. But Section 20, Regulation 52, 1803, for establishing a court of wards in the upper provinces, again provided, that "when the manager may act for a proprietor under age, not otherwise disqualified, he shall not grant any lease extending beyond the minority of the proprietor."

14. "If the collector shall think it unnecessary, or unadvisable, to appropriate such surplus receipts to the improvement of the lands already under the manager's charge, he shall cause the same to be applied by the manager to the purchase of other landed property, or to interest loans on mortgages, or to the purchase of government paper securities, as circumstances may render preferable; in which cases, he shall transmit the title deeds and mortgage deeds of the land purchases, or mortgages, to the court of wards, to be deposited in the general treasury; but as interest will occasionally become payable on the government paper securities, he shall deposit them in the public treasury under his charge, giving, in all cases, a receipt to the manager, as well for the title and mortgage deeds, as for the paper securities. The court of wards shall also obtain the sub-treasurer's receipt for the two former, when deposited in the general treasury; and shall transmit an attested copy thereof to the collector, to be delivered by him to the manager. The manager shall also deliver any existing title or mortgage deeds, or government securities, belonging to the estate under his charge, to the collector, who shall, in like manner, return a receipt for the same, and transmit them to the court of wards, or deposit them in his public treasury as above directed. Any interest becoming payable on government securities shall be paid to the manager, to be appropriated by him, in common with other resources, independent of the produce of the malguzarry lands, as before mentioned." 15. "Any just debts outstanding against, or hereafter adjudged against, the estates of disqualified landholders, must necessarily be satisfied, (if required so to be by the creditors) as far as may be consistent with the rights of government, to whom the produce of the malguzarry lands is mortgaged in the first instance, for the payment of the public revenue assessed thereon. The circumstances of all such debts, however, shall be immediately reported to the collector, and by him, without delay, to the court of wards, with his sentiments on the best mode of satisfying the same, for their instructions, previous to any payment being made by the manager in discharge of them. In the

Reg. 10, 1793,
§ 18. Reg. 50,
1803, § 22.
Surplus receipts
how to be ap-
propriated, and
rule for deposit
of title deeds,
mortgage deeds,
or paper securi-
ties.

Reg. 10, 1793,
§ 19. Reg. 50,
1803, § 23.
Just debts of
disqualified
landholders,
how to be satis-
fied.

Lower provinces.
Reg. 50, 1793,
§ 5. Upper
provinces, Reg.
8, 1805, § 29.
Clause 5.
To what collec-
tor the manager
to render his
accounts, when
an estate is situ-
ate in more than
one zillah.

Reg. 10, 1793,
§ 20. Reg. 52,
1803, § 24.
Province of
Guardians.

Reg. 10, 1793,
§ 21. Reg. 52,
1803, § 25.
Rule for
choice of guar-
dian, and to ad-
mit of the tes-
tamentary ap-
pointment of
guardians un-
der restrictions.

Reg. 10, 1793,
§ 22. Reg. 52,
1803, § 26.
What landholders
require guardi-
ans.

Reg. 10, 1793,
§ 23. Reg. 52,
1803, § 27.
Compensation
to guardian,
when necessary.

event of any debts being compounded for a less sum than the full amount, the estate shall be debited by the manager for the actual payment only." 16. "Where portions of the same estate, belonging to a disqualified landholder, may be situated in different zillahs, the court of wards are empowered to authorize the monthly and annual accounts of the whole estate, required to be furnished by the manager, to be rendered to the collector of the zillah in which the principal portion of the estate may be situated, instead of delivering separate accounts for each portion, to the collector of the zillah in which it may be included." 17. Agreeably to the first rule, "it will be the province of guardians appointed for disqualified landholders, to take care of the person, maintenance, and, if a minor, the education of the ward." 18. The provisions contained in the second rule, "for the election of managers, shall be applied also to the choice of guardians, with these differences, that the guardianship shall, in no instance, be entrusted to the legal heir, or other person interested in outliving the ward; and that female minors shall have guardians of their own sex. Further, under these restrictions, landholders, whose heirs are disqualified, may appoint guardians to such heirs by will in writing; and such guardians, (provided they be duly qualified,) if willing to accept the trust and execute the obligation hereafter specified, shall be preferred. Such testamentary appointments, however, shall, in all instances, be reported, with the sentiments of the collector, for the confirmation of the court of wards, and shall not be deemed valid till confirmed by them." 19. "Landholders disqualified, on account of minority, idiotism, lunacy, or other natural defect or infirmity, rendering them incapable of attending to the care of their own persons and maintenance, will alone require guardians. Female, as well as male proprietors, not so disqualified, may themselves receive and disburse the allowance fixed for their maintenance." 20. "For persons of the descriptions abovementioned it is expected that some friend of the party will gratuitously discharge the trust of guardian, appropriating the fixed allowance to the maintenance, and, if a minor,

to the education also of the ward. Should it, however, in any instance, be found necessary to make a pecuniary compensation to a person to act as guardian, such compensation, after being approved by the court of wards, shall be provided from the allowance fixed for the maintenance of the ward." 21. "The guardian, previous to the receipt of his commission, shall give security for his appearance during the continuance of it, and shall execute the following obligation:—" I, A. B. having voluntarily taken on myself the guardianship of C—, disqualified proprietor of D—, do hereby solemnly promise and engage to execute the trust committed to me, zealously and faithfully, to the best of my judgment, and according to the regulations which have been or may be prescribed for the guidance of guardians, by the Governor General in Council. I will conscientiously appropriate the allowance fixed for the maintenance, and (if the ward be a minor) the education of my ward, to his (or her) benefit, and will derive no advantage therefrom myself, directly or indirectly, beyond the compensation granted me for my superintendence. I also promise and engage to render a true and just account of whatsoever may be received by me, on account of my ward abovementioned; and in the event of its being proved that I have been guilty of any embezzlement, or of any breach of trust, injurious to his (or her) property, I hereby bind myself, my heirs, and successors, to make good treble the amount of the embezzlement, or injury, so proved against me." 22. "An establishment of necessary servants, to act under the guardian, shall be proposed by the guardian to the collector, and fixed by the court of wards; and the several rules and restrictions (in the fifth rule) regarding the establishments of managers shall be considered equally applicable to the establishments of guardians. The expense of the latter shall be defrayed from the allowance fixed for the support of the proprietors." 23. "The guardian shall deliver a monthly account current of his receipts and disbursements to the collector, who shall audit the disbursements therein specified, and see that the receipts have been fairly and duly appropriated.

Reg. 10, 1793;
§ 24, Reg. 52,
1803, § 28.
Security to be
given, and obli-
gation executed
by guardians.

Reg. 10, 1793;
§ 25, Reg. 52,
1803, § 29.
Establishment
of servants to
act under the
guardian, what
rules applicable
to them.

Reg. 10, 1793;
§ 26, Reg. 52,
1803, § 30.
Accounts to be
delivered by
guardian, and
audited by the
collector.

The

The guardian shall also deliver an annual account current upon oath, (unless the court of wards shall be satisfied that it will be for the benefit of their general trust to admit the guardian to deliver in such accounts under a solemn declaration of their being true and faithful accounts, in which case, they are empowered to receive the accounts under such declaration, instead of an oath;) with vouchers, to be in like manner audited by the collector; and in the event of any money remaining in his hands, which the collector shall think unnecessary for the guardian's expenses in the ensuing year, he shall cause the same to be repaid to the manager, to be applied by him to the benefit of the estate under his charge." 24. "In cases of minority, where the minor may be a male, the superintendence of his female relations shall not be allowed after the expiration of the fifth year; and on his attaining the age of tuition, it must be the first care of the guardian to procure proper teachers to give him an education suitable to his situation in life." 25. "Minority with respect to both Hindoos, and Mahomedans, is limited to the expiration of the eighteenth year."* 26. "The guardians

Reg. 10, 1793.
§ 27. Reg. 52,
1803, § 31.
Rule for super-
intendence and
tuition, of male
wards in cases of
minority.

Reg. 26, 1793.
§ 2. Reg. 52,
1803, § 32.
Period of mi-
nority.
Reg. 10, 1793.

* It was originally limited, by Section 28, Regulation 10, 1793, to the expiration of the fifteenth year, but was altered for the following reasons, stated in the preamble to Regulation 26, 1793. "In fixing this period, government were guided solely by legal considerations; the Mahomedan and Hindoo Laws, although they prescribe no specific age for the termination of minority, indirectly point out the fifteenth year as the time when persons are to be considered competent to the management of their affairs. Instances however have recently occurred, that evince the inexpediency of vesting proprietors with the charge of their lands at this early period; and general principles, which have their foundation in human nature, justify the conclusion that the same effects would result in similar cases that might hereafter occur, were the cause allowed to exist. At this early age, the proprietors must necessarily be unacquainted with the laws and regulations which they are bound to observe in the management of their estates; and their understanding cannot be sufficiently matured to render them sensible that their welfare depends upon their making the acquirement of this knowledge the chief object of their pursuit. Emancipated from the control of their guardians, and with their property at their disposal, they abandon themselves to those pleasures to which their youth naturally inclines them. The management of their estates consequently devolves to favorites or dependants, who are interested in confirming them in habits of dissipation, until they have lost both the capacity and inclination to assume the direction of their own affairs. But the pernicious consequences, resulting from the incapacity of the proprietors, are not confined to themselves. The cultivators of the soil, and the various orders of people residing upon their lands, suffer equally by the rapacity and mismanagement of their agents; the payment of the public revenue is withheld; and the improvement of the country retarded. It is therefore incumbent on government, as well with a view to the future wel-
fare

guardians of female minors, who, (agreeably to the eighteenth rule) are to be of the same sex, shall also take care that their wards, when arrived at the age of tuition, receive an education suitable to their condition. 27. "The trusts of guardian and manager may be united in persons to whom the inheritance cannot possibly descend, if circumstances should render the same eligible; but, in this case, the trustee shall be considered as acting in two distinct characters; and shall execute the obligations of both manager and guardian; and deliver the accounts required from each distinctly." 28. "Both manager and guardian shall sign and seal all papers with their own names and seals; adding to the former their designation of manager or guardian. They shall, on no account, sign or seal the name of their ward, or of his (or her) deceased parents; but shall deliver all family seals, belonging to the ward, to the collector, to be deposited in the treasury of the collectorship." 29. "Minors and other disqualified landholders having guardians, (as described in the nineteenth rule) shall not be sued, but under the protection and joint name of their guardians. They may however, during the term of their disqualification, sue the collectors, their guardians, or managers, before the court of wards, for fraud, by any person willing to undertake their cause, provided such person shall previously give security for the payment of all costs and damages, in case of being nonsuited; in return for which, the person so suing shall receive any fine and costs that may be adjudged against the collector, guardian, or manager, in the cause undertaken by him. The court of wards may order the collector to enquire into, and report upon, any such charges against guardians, or managers; but the collector shall not pass judgment, which shall be given by the court of wards. If the court of wards, or the collector, shall have occasion to require the attendance of any persons in the course of such enquires, they shall

Reg. 10, 1793,
§ 29. Reg. 52,
1803, § 33.
Rule for tuition
of female mi-
nors.

Reg. 10, 1793,
§ 30. Reg. 52,
1803, § 34.
In what cases
trusts of guar-
dian and ma-
nager may be
united.

Reg. 10, 1793,
§ 31. Reg. 52,
1803, § 35.
Manager and
guardian how to
seal all papers.

Reg. 10, 1793,
§ 32. Reg. 52,
1803, § 36.
Minors & others
having guardi-
ans, not to be
sued but joint-
ly with their
guardians. They
may however,
sue, for fraud,
by any person,
under certain
provisions.

fare of the proprietors of land in general, as to protect the country from the frequent shocks to which it would necessarily be liable, from their want of education and early corruption of morals, to extend the term of their minority to an age, by which, with due attention on the part of their guardians, they may be rendered qualified for the management of their estates."

Judgments of
Court of wards
how to be exe-
cuted.

An appeal al-
lowed to the
Court of Sud-
der Dewanny
Adawlut.

Lower provin-
ces, Reg. 55,
1795, § 2. Up-
per provinces,
Reg. 8, 1805,
§ 19. Clause 7.
Security not to
be required
from guardians
sued with their
wards under
preceding rule.
Reg. 10, 1793,
§ 33. Reg. 54,
1803, § 37.
Adoption by
disqualified
landholders not
valid without
consent of court
of wards.
Reg. 10, 1793,
§ 34. Reg. 53,
1803, § 38.
Particulars to
be stated by col-
lectors with
their report of
disqualification
of a landholder.

make application to the judge of the proper court of adawlut to summon them to attend, and the court of wards and collectors are empowered to administer oaths to such persons, if necessary, under the rules and restrictions prescribed to the zillah court for the administration of oaths. The court of wards shall transmit copies of any judgments which may be given by them, under this clause, against a collector, guardian or manager, to the court of adawlut of the zillah, and they shall be considered as judgments of the court, and be enforced accordingly. An appeal, however, shall lie from such judgments immediately to the Sudder Dewanny Adawut, provided the petition of appeal be preferred to the zillah court, or to the Sudder Dewanny Adawlut, or to the court of wards, within three months after the date of the decision; and the Sudder Dewanny Adawlut is empowered to admit an appeal after that period, provided the petition of appeal be presented to that court, and the appellant shall shew good cause to its satisfaction for not having preferred the appeal within the prescribed time." 30. "In cases in which a guardian may be sued jointly with his ward under the first part of the preceding rule, the securities required by the regulations, to be taken from parties in civil suits, shall not be demanded from the guardian."* 31. "No adoption by disqualified landholders shall be deemed valid, without the previous consent of the court of wards, on application made to them through the collector." 32. "When the collectors report to the court of wards the disqualification of any landholder, they, shall at the same time, state the condition of the party; the particulars of his or her estate, real and personal, as far as can be ascertained, and the person who may appear to them most eligible for manager and

* The reason given for this exemption in the preamble to Regulation 55, 1795, is, its not having been intended by the rule, "that minors, and other disqualified landholders having guardians, shall not be sued but under the protection; and joint name of their guardians," that guardians should incur any personal responsibility on account of such suits, they being entrusted only with the care of the person, maintenance, and (if a minor) the education of the ward; and the estate of the ward being answerable for all claims upon it. This however is not applicable to the security required by the regulations for staying the execution of a decree against a ward; or indeed to any case in which security is demandable from the ward himself, under the provisions stated in vol. 1.

guardian, with the grounds of such opinion. In cases of testamentary appointments of guardians, they shall also notice the same, adding whether there be any and what objections to the confirmation of such appointments." 33. "The collectors shall further make such monthly or annual reports to the court of wards as may be required by them; and they, as well as managers and guardians, shall observe all instructions transmitted to them by the court of wards, not contrary to the regulations enacted by the Governor General in Council." 34. "If a proprietor shall have been declared disqualified, and shall have been afterwards restored, or if the estate of any disqualified proprietor shall legally devolve to, or come into the possession of, any person not disqualified for the management of it, such proprietor, or his or her heir or successor, is declared entitled to sue the collector, the guardian, (if such disqualified proprietor shall have had a guardian,) or the manager, in the proper zillah court, for any acts done by them respectively, whilst the estate may have been under the charge of the court of wards, in opposition to any regulation enacted regarding disqualified proprietors and their estates, or to any order issued by the court of wards, or for any breach of their respective trusts. The rules regarding suits which the collectors are required to defend, at their own risk and expense, shall be considered applicable to suits that may be instituted against collectors under this section."

Reg. 10, 1791.
§ 35. Reg. 52,
1803, § 30.
Collectors to
furnish any o-
ther reports re-
quired by court
of wards; and,
as well as mana-
gers and guar-
dians, to obey
instructions of
that court, not
contrary to the
regulations.
R. g. 10, 1793,
§ 36. Reg. 52,
1803, § 40.
Collectors,
guardians, and
managers liable
to be sued for
acts done in op-
position to re-
gulation, or to
orders of court
of ward, or
for a breach of
trust.

What rules ap-
plicable to such
suits.

4. COLLECTORS AND THEIR ASSISTANTS.

THE provinces of Bengal, Behar, and Orissa, (including Cuttack) are divided into twenty-one collectorships, also called zillahs, or districts; and the upper provinces into eleven; making, with the collectorship of Benares, an aggregate of thirty-three. The revenues of each district are under the superintendence of a covenanted civil servant of the Company, who is styled "collector of the revenue of the zillah;" and has in general an assistant, in some instances, two assistants, who are also covenanted civil servants. The collectors (as well as their assistants, under the pro-
visions

Division of pro-
vince into col-
lectorships.

By whom su-
perintended in
the Revenue
Department.
Lower provin-
ces, Reg. 2,
1793, § 3. Reg.
5, 1795, § 2.
Upper provin-
ces, Reg. 25,
1803, § 2.

Reg. 5, 1804,
§ 25.
Before whom
collectors and
their assistants
to take the oath
prescribed by
§ 21, of the
Statute 33. Geo.
III. Cap. 52.

visions of the Statute 33. Geo. III. Cap. 52. Section 61.) are required, previously to entering upon the execution of the duties of their offices, “to take the oath prescribed by Act of Parliament for servants of the Company employed in the collection or management of the revenue;” but as it was found inconvenient in many cases to bring the persons so employed, from their stations to the presidency, for the purpose of taking the oath before one of the judges of the Supreme Court; and it is provided in the statute that the oath therein prescribed may be administered by any person deputed or authorized for this purpose by an order of the Governor General in Council; it was declared by Section 25, of Regulation 5, 1804, in modification of the rule before in force, (which directed the oath to be taken before one of the judges of the Supreme Court,) that “whenever it may be requisite to administer to any person employed in the management or collection of the revenue the oath prescribed by the sixty-first section of the Statute 33. Geo. III. Cap. 52; the Governor General in Council will determine and direct, whether the same shall be taken before one of the judges of the Supreme Court of Judicature at Calcutta, or before such other person as may be authorized by an order of government for this purpose. It shall however be observed, as an invariable rule, whenever the oath in question may be taken before any other person than one of the Judges of the Supreme Court, to transmit the same, duly subscribed and attested, to the Register of the Sudder Dewanny Adawlut, for the purpose of being recorded in that Court.*

Reg. 2, 1793,
§ 5, 6. Reg. 5,
1795, § 4, 5.
Reg. 25, 1803,
§ 4, 5.
Seal to be used
by collectors.

THE collectors of the several zillahs are directed to use a circular seal, one inch and a half in diameter, bearing an inscription, in the Persian and Bengal languages, in Bengal and Orissa, and in the Persian and Hindoostanee languages in the other provinces,

* Section 26, of Regulation 5, 1804, contains the form of oath “to be taken by persons employed in the collection of the public revenue:” conformably to that prescribed by Section 61, of the statute referred to, which has been stated in a former note. Page 84.

to the following effect. "The seal of the collector of the zillah of.—" They are also required to "keep a regular diary of their official translations," in the English, Persian, Bengal, or Hindoostanee languages; "recording and attesting them with their official signature at the time when they may take place." They are to correspond with the Board of Revenue, (or Board of Commissioners in the upper provinces and Benares) and to conform to all instructions which have been, or may be, transmitted to them by that Board, not contrary to any regulation published in the prescribed form. They are likewise specially authorized and directed to perform the following duties, under the superintendence of the Board of Revenue, or Board of Commissioners, respectively. 1. "To collect the amount of the revenue assessed upon the lands of the zemindars, independent talookdars, or other actual proprietors of land, with or on behalf of whom a settlement has been or shall be concluded." 2. "To collect the stipulated annual revenue from the farmers of estates let in farm." 3. "To levy the rents and revenue from estates held khaus or amauany." 4. "To make the future settlement of khaus, or of farmed estates, agreeably to the regulations, and the instructions which they shall receive for that purpose." 5. "To prosecute for the recovery of the dues of Government from lands of whatever description, held exempt from the payment of revenue under illegal or invalid tenures." 6. "To pay the pensions and allowances included in, or chargeable on, the public revenue, the compensations granted for the sayar abolished, and all other pensions and compensations which shall be granted or confirmed, under the regulations." 7. "To execute the instructions which shall be issued to them by the court of wards regarding disqualified landholders and their estates." 8. "To superintend the division of landed property paying revenue to Government, which shall be ordered to be divided into two or more distinct estates." 9. "To apportion the public revenue on lands ordered to be disposed of at public sale, for the discharge of arrears of revenue, or in satisfaction of the decrees of the Courts of Judicature." 10. "To col-

And diary to be kept by them.

Reg. 2, 1793, § 4, 7. Reg. 5, 1795, § 3, 6. Reg. 25, 1803, § 3, 6. To correspond with Board of Revenue, or Board of Commissioners; and conform to their instructions, not contrary to the regulations.

Reg. 2, 1793, § 8, 28. Reg. 5, 1795, § 7, 26. Reg. 25, 1803, § 7, 27. Special duties to be performed by collectors, under superintendence of Board of Revenue, or Board of Commissioners.

lect the tax on spirituous liquors, and intoxicating drugs or articles, and the duties levied in bazars and gunges under the regulations." 11. "To obtain lands for the native invalid soldiers, to whom a provision in land shall be assigned, on being discharged from the service, or otherwise." 12. "To perform the above, and all other duties, according to the rules which have been or shall be prescribed to them by any regulation, published in the manner directed in Regulations 41, 1793, and 1, 1803." The collectors are further required "to transmit such annual monthly, or other accounts, as they now furnish, or shall be hereafter required to send, by the Board of Revenue (or Board of Commissioners) or any officer under that Board empowered to require such accounts. To conform to all special orders which have been or shall be issued to them by the Board of Revenue, (or Board of Commissioners,) or by public officers empowered to issue such orders. And to pay due attention to all references or requisitions which shall be made to them by the president or acting president of the Board of Revenue, (or Board of Commissioners,) for papers, or accounts, or information, on matters relating to their public duty."

Reg. 2, 1793,
§ 10. Reg. 5,
1795, § 10.
Reg. 25, 1803,
§ 9.
Collectors not
to employ their
private servants
in any part of
their public du-
ties.

THE collectors are prohibited from "employing, directly or indirectly, their private servants, whether banyans or others, in the discharge of any part of their public duties; it being required that the collectors, in all matters relating to the trust committed to them, shall act as the only empowered agents of government. This prohibition, however, is not meant to restrict the collectors from occasionally employing their assistants, or dewans, * or their inferior public servants, in the cases, and in the manner, in which they shall be specially authorized to make use of their agency." They are also prohibited "from employing any persons, excepting public and registered officers, in matters in any respect relating to their official duty, and are not, under any plea or pretext,

Reg. 2, 1793,
§ 13. Reg. 5,
1795, § 13.
Reg. 25, 1803,
§ 10.
Nor public of-

* The office of dewan to the collectors has been recently abolished, by Regulation 15, 1815, as will be more fully mentioned in the sequel.

to confer on their public officers any private trust relating to their personal concerns." The collectors are likewise forbidden to "employ sepoys in the collection of the public revenue;" as well as directly or indirectly, to "give land in farm to a European, or accept the security of an European," for any *tehsildar*, *zemin-dar*, *talookdar*, farmer, or *ryot*.* And the following prohibitions

forces in any pri-
vate suit:
Reg. 2, 1793,
§ 22, 17. Reg.
5, 1794, § 27;
17. Reg. 2c,
1803, § 21, 18.
Not to employ
sepoys in col-
lections, or to
farm lands to,
or accept securi-
ty of, any Eu-
ropean.

* The prohibition contained in Section 3, Regulation 38, 1793, (re-enacted for Benares by Section 3, Regulation 48, 1795, and for the Upper Provinces by Section 3, Regulation 19, 1803,) that "no European of whatever nation or description, shall purchase, rent, or occupy, directly or indirectly, any land out of the limits of the town of Calcutta, without the sanction of the Governor General in Council," was mentioned in the first part of this Analysis, page 177. The following farther provisions are contained in Sections 4, 5, and 6, of the same regulations. "Europeans, who are not prohibited from lending money to proprietors, or farmers of land, dependent talookdars, (or in Benares, dependent zemindars or *patteedars*) under farmers, or *ryots*, and who may make loans to them on the security or mortgage of their lands or leases, shall not be allowed, directly or indirectly, to hold possession of the lands; the proprietary right in which, or lease whereof, may be mortgaged to them as security for the loan; or to make or appropriate the collections, or to have any concern or interference whatever in the management or collection of the rents or revenue of the lands. When a European shall be permitted by the Governor General in Council, to purchase, occupy, or rent, any land out of the limits of Calcutta, it shall be measured by an officer to be appointed by the collector, and the expense attending the measurement shall be paid by the party purchasing, renting, or occupying the ground. It shall be the duty of the collectors to report to the Board of Revenue, (or Board of Commissioners) for the information of the Governor General in Council, every instance that may come to their knowledge in which Europeans may, directly or indirectly, purchase, occupy, or rent land without such authority. The collectors are also to transmit an annual statement, on the 1st January, specifying the names of the Europeans possessing, renting, or occupying land within their respective *zillahs*, the extent of the land, the purpose to which it is applied, and from what period, and under what authority, it has been so possessed, occupied, or rented." Since this note was written, several important provisions relative to British subjects residing without the limits of Calcutta, and carrying on trade or other business, or in the occupation or possession of immoveable property, at a distance of more than ten miles from the presidency, have been enacted by the legislature in Sections 105 to 108, of the Statute 53. Geo. III. Cap. 155. These sections are too long to be detailed in this place. But it may be observed, that they authorize the local magistrates to take cognizance of complaints of assault and trespass, viz. of "assault, forcible entry, or other injury, accompanied with force, not being felony," alleged to have been committed against the person or property of a native of India, by a British subject; as well as of claims of debt, not exceeding fifty rupees, alleged to be due from a British subject to a native of India. British subjects, as well the Company's servants as others, residing or carrying on trade or other business, or occupying or possessing immoveable property, in any part of the British Territories in India, more than ten miles from the presidency, are also, under certain restrictions of time and locality, declared subject to the jurisdiction of the established courts having cognizance of civil suits, or in matters of revenue, in all actions and proceedings of a civil nature, and in all matters of revenue, with the option of an appeal to the Supreme Court, instead of the *Sudder Dewanny*

Adawlut.

Reg. 2, 1793, § 15, 18. Reg. 5, 1795, § 15, 28. Reg. 25, 1803, § 14, 17. Collectors and assistants forbidden to hold any farm; or to be privately concerned in the revenue, as sureties or otherwise. Or to be engaged in trade, or any commercial transaction.

Reg. 33, 1793, § 2. Reg. 48, 1795, § 2. Reg. 19, 1803, § 2. Also to lend money to any landholder, farmer, or ryut, or their sureties. Reg. 2, 1793, § 23, 24 and 25. Reg. 5, 1795, § 22. Reg. 25, 1803, § 22, 23, and 20. Tuccavy advances not to be made without sanction of the Board of Revenue or Board of Commissioners. And collectors not to depute any person, or exercise any authority, beyond the limits of their own districts, except under regulations, or special orders. Reports to be made, with view of rendering zillahs compact.

tions are common to the collectors and their assistants. 1. “To hold, directly or indirectly, any farm, or to be concerned, on their private accounts, in the collection or payment of the revenue, of any lands in the zillah, either as farmer, surety, or otherwise.” 2. “To carry on any trade, directly or indirectly, or be concerned in any commercial transaction whatever,” which prohibition is declared “to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions subject to the immediate government of the presidency of Fort William, for the purpose of remitting money to Europe.” 3. “To lend money, directly or indirectly, to any proprietor or farmer of land, dependent talookdar, or under farmer or ryut, or their sureties;” and all such loans are declared “not recoverable in any court of judicature.” The collectors are further restricted from advancing money as tuccavy, (an advance to landholders, farmers, or ryuts, but ultimately receivable by the latter, for expences of cultivation, to be repaid in general at the time of harvest) without the express sanction of the Board of Revenue, or Board of Commissioners. Also “from deputing any person into the zillah of any other collector; or exercising any authority beyond the limits of their respective zillahs; excepting in cases in which they shall be authorized so to do, by a regulation; or special orders from a competent authority.” But with a view to render the several zillahs as compact as possible, the collectors are directed to report every instance in which lands included in their respective zillahs shall be circumscribed by any other zillah; and also where lands included in other zillahs are circumscribed by their own zillahs; in order that such lands may be annexed to the zillah by

Adawlut. And lastly, any British subject, not in the service of His Majesty, or of the Company, who may be permitted by government to reside in any part of the British territories distant more than ten miles from the presidency, is required to deposit a certificate of the permission granted to him, in the civil court of the district in which he may reside, under penalty of not being allowed to maintain any civil action or proceeding until a copy of such certificate is filed, under the signature of the judge of the court wherein it is deposited; or of being non-suited, if it appear that the plaintiff is a British subject, not in the service of His Majesty or the Company, residing at more than ten miles distance from the presidency, without the requisite permission of government.

which

which they are circumscribed." The collectors of Bengal and Behar are further instructed "to send information to the Board of Revenue of any parts of their zillahs, which may be intersected by the rivers Ganges, Megna, or Burhumpooter." In consideration probably of the great extent of the Benares collectorship, as well as of the detailed nature of the collections in that province from numerous proprietors and shares of small estates, the collector of

Benares, Reg. 5, 1795, § 28. Collector of Benares authorized to depute his assistant for local inquiries.

Benares was authorized by Section 28, of Regulation 5, 1795, "to depute his assistant to make occasional local enquiries into the causes of balances, or deficiencies in the revenue; but he is forthwith to advise the Board of Commissioners of such deputations, and to conform to the instructions with which they may furnish him." In cases of urgent necessity, not admitting of a previous reference to the Board of Revenue, or Board of Commissioners, there can be no doubt, that the other collectors would be justified in exercising the same power as, by the above rule, is expressly vested in the collector of Benares; but as such deputations are attended with expense, it is usual to report the occasion for them when circumstances admit of it, in the first instance.* The record offices established in each zillah, under the superintendence of two native officers, specially appointed for that duty, will be mentioned under the next head; relative to these, and other *native officers in the Revenue Department*. But it may be here noticed, that the collectors are required to be "careful that the accounts and records of their respective zillahs are kept complete, and duly preserved." To prevent loss of revenue, or confusion in accounts, from the resignation, or removal, of collectors, it is further directed that "no collector

This authority not expressly vested in the other collectors, but the exercise of it considered justifiable when circumstances may not admit of a previous reference to the Board of Revenue, or Board of Commissioners.

Reg. 2, 1793, § 20, 27. Reg. 5, 1795, § 20, 25. Reg. 25, 1803, § 19, 26. Collectors to keep the accounts and records of their offices complete.

And not to quit their stations till they have delivered over charge to their successors; and

* The extra allowance to assistants on deputation is 12 rupees per diem: and by an order of government passed on the 19th December 1799, at the suggestion of the Board of Revenue, it was determined, that this allowance should be granted in addition to the established rate of allowance for travelling charges; but drawn only by officers entitled thereto, "from the date of their arrival at the station to which they may be deputed; until the date on which they may discontinue the actual exercise of the commission entrusted to them." It was further determined by the Governor General in Council, on the 2d January 1800, that "the collectors are liable, at all times, to be deputed to different parts of their districts, whenever the public service may require their personal attendance; and that they are not to be considered entitled to any extra allowance during such deputations."

obtained per-
mission to de-
part.

shall be permitted to depart from his station, until he shall have either delivered over complete charge of his trust to his successor, or to his assistant; and until notification shall have been made to the Board of Revenue (or Board of Commissioners) of his having complied with this rule, and the sanction of that Board shall have been obtained for his departure. This rule shall on no account be dispensed with, unless by special permission from the Board of Revenue (or Board of Commissioners;) which is to be granted only in particular cases appearing to them to require such dispensation.”* And lastly, it is provided, that in the event of the death, or removal, of a collector, or of absence from his station, (under leave from the Governor General in Council, or from the Board of Commissioners) and no other person having been appointed to succeed, or officiate, “the senior assistant on the spot shall perform the duties of collector; and the dewan and other public officers of the collectorship shall accordingly obey his orders.”†

Reg. 2, 1793.
§ 14. Reg. 3,
1793, § 14.
Reg. 25, 1805,
§ 13.
Provision for
the senior affi-
davit officiating
as collector, dur-
ing the absence
of the latter;
or on his death,
or removal.

THE

* The following extract of a letter from the sub-secretary to government, dated 28th April 1797, and addressed to the secretary of the Board of Revenue, was communicated to the several collectors, for their guidance.—“The Vice President in Council having reason to apprehend, that sufficient care is not taken to preserve the translations of the regulations, I am directed by him to inform the Board of Revenue, that he desires they will notify to the several officers under their authority, that they are invariably to reserve one copy of each regulation, as a record of their respective offices; for which a receipt is to be required whenever the charge of the office may devolve on any other person. As soon as the translations of each year are completed, they are to be bound up in a book, and care is to be taken to preserve it from decay or accidents. The same rule is to be observed with regard to the English copies of the regulations.”

The following extract of a letter from the Governor General in Council to the Board of Revenue, dated 1st June 1798, may also be noticed in this place. “We expect the collectors to provide a safe and proper office for their records, as well as a cutcherry and treasury, from the allowance of 150 Rupees per Month, which they receive for office and cutcherry rent; and should you, in any instance, have reason to believe that the safety of the records has not been sufficiently provided for, we desire you will require the collector to take the necessary measures for providing a proper office without further delay.” On the 6th June 1801, the Governor General in Council further directed “that it be observed as a general rule by persons succeeding to official situations, where any buildings may belong to government, that they report the state of such buildings at the period of receiving charge of the offices to which they may have been appointed.”

† The following orders, relative to leave of absence to collectors and their assistants, were communicated in a letter from the secretary of government, to the secretary of the Board of Revenue, dated 5th April 1793: but applications from assistants for leave of absence are usually transmitted to the Board of Revenue, or Board of Commissioners, before they are complied with. “The Governor General in Council desires that the Board of

Revenue

The detailed functions of the collectors of the land revenue and internal duties will be stated in the sequel, under the proper heads; and those of the collectors of customs and their deputies (whose

Detailed functions of collectors of the land revenue and internal duties will be stated in the sequel.

Revenue will order the collectors, whenever they apply to them for temporary leave of absence from their stations, to specify in their applications the period for which they may wish such leave to be granted. His Lordship in Council further desires that whenever the Board grant permission to a collector to quit his station, under the regulations, they will order their secretary to send notice thereof, and of the time for which they may grant such leave, to the secretary to the government, for his information. His Lordship in Council likewise directs, that all applications from assistants to collectors for leave of absence from their stations, be made in writing, and that they specify the term for which they wish to be absent; and that the collectors be instructed to inform the Board whenever they may grant leave of absence to their assistants, and specify the time for which such leave may be granted. Copies of these notifications from the collectors are to be sent to the secretary to the government for the information of his Lordship in Council."

The subjoined *general rules for the civil service, providing in what cases the public officers shall be liable to a deduction of part of their allowances, when absent from their stations*, were passed by the Governor General in Council on the dates specified. 28th April, 1809. "The Governor General in Council adverting to the numerous applications received from the public officers in the different branches of the service for leave of absence, observes, that an actual necessity appears to exist for establishing some restrictions on this species of indulgence. Two motives exist for the adoption of such restraints: 1st, the inconvenience which is experienced by the absence of the public officers from their stations; and 2dly, the expence to which government is frequently subject in consequence of the nomination of persons to discharge temporarily the duty of the absentees. His lordship in Council remarks, that the object in view cannot be effected solely by the exercise of the discretion, which government of course possesses, of granting or rejecting applications of that nature; as the Governor General in Council must necessarily, for the most part, be guided by the circumstances stated by the individuals interested in obtaining leave of absence. For the reasons above stated, the Governor General in Council resolves, that whenever any person in the political, judicial, revenue, or commercial branch of the service, shall apply for, and obtain, leave of absence from his station, a third part of the established salary and allowances of such person shall be deducted and carried to the credit of government." 19th September 1809. "By Section 2, Regulation 3, 1798, it is enacted, that the provincial, zillah, and city courts, shall be annually adjourned for the period of one month on account of the Dussarah, and for the period of fifteen days on account of the Mohurram. In the preamble to that regulation it is also stated, that the Governor General in Council, in establishing these vacations, "had in view to enable such of the judges and registers as might require temporary leave of absence from their stations for any private purpose to apply for the same at a period, when the adjournments of the civil courts might admit of it with less public inconvenience than when both civil and criminal courts were open," &c. By the resolution passed by government on the 28th April last, it was determined, "that whenever any person in the political, judicial, revenue, or commercial branch of the service should apply for and obtain leave of absence from his station, a third part of the established salary and allowances of such person should be deducted and carried to the credit of government." The Vice President in Council being anxious to afford to the public officers in the civil branch of the service every indulgence and accommodation consistent with the due discharge of the public business, is pleased, on a reconsideration of the abovementioned rules, to direct, that whenever any of the officers in the judicial department may apply for and obtain leave of absence

As well as those
of collectors of
customs and
their deputies

(whose subordination to the Board of Revenue, and Board of Commissioners has been already noticed) will be distinctly specified in a separate section.

5. *NATIVE*

sence during the Dussarah or Mohurram, such person be not subject to any deduction from his salary and established allowances, provided that his absence do not exceed one month at the Dussarah, nor fifteen days at the Mohurram. In order likewise to put the officers in the political, revenue, and commercial branches of the service on the same footing as the judicial officers, the Vice President in Council resolves, that whenever any person in either of those three branches of the service may apply for and obtain leave of absence, he be not subject to any deduction from his established salary and allowances, provided that his absence do not exceed the period of six weeks in the year. It is to be understood that government, of course, reserves to itself the power of granting or refusing leave on any occasion, according as the state of the public business and other circumstances may render proper; and that whenever any person may be absent from his station during a longer period, or in any other manner than that above specified, although it be with the sanction of government, or of other authority competent to grant such leave, he is to be subject to a deduction of a third part of his established salary and allowances, as directed in the orders of the 28th April last." The following circular letter to the collectors, with a view to the observance of the above rules in the revenue department, was issued by the secretary to the Board of Revenue, on the 2d November 1809. "I am directed by the Board of Revenue to acquaint you, that in order to enable the auditor to carry into effect the resolutions of government of the 28th April last, and of the 19th ultimo, respecting leave of absence, the Honorable the Vice President in Council has been pleased to resolve, that any officer in the revenue department, who may obtain leave of absence, shall forward to the auditor's office, certificates signed by the person to whom he may deliver over charge, and from whom he may again receive charge of his office, specifying the dates on which he may have relinquished, and on which he may have resumed the charge of his office. The Board desire that you will observe the strictest attention to the above orders." On the 26th January 1814, the following additional resolutions were passed by the Governor General in Council "for amending such part of the rules before established, regarding leave of absence in the civil branch of the service, as relates to cases of actual indisposition." First. That persons applying for leave of absence on account of indisposition, accompany such application with a certificate of the state of their health from the surgeon or assistant surgeon of their station, who is to give the outlines of their cases, either in the body of the certificate, or on a paper accompanying it, as may be deemed most convenient, agreeably to the Form A. Second. That when any extension of leave of absence may be deemed necessary, such officers, if they have proceeded to any station immediately dependent on this presidency, without coming to Calcutta, attend the senior surgeon, whether civil or military, of such station, and obtain from him a certificate of the form-B, to be renewed monthly; and if they have come to Calcutta, obtain from the surgeon attending them a similar sick certificate, to be also renewed monthly, and which must be confirmed by the concurrent testimony of the superintending surgeon of the presidency, or in his absence, by one of the Members of the Medical Board. Third. That when such officers may find it necessary to proceed to sea for the recovery of their health, they obtain certificates to that effect from the surgeons attending them, which must be confirmed by one of the Members of the Medical Board, in one of the three forms already prescribed for their guidance in respect to the Military Department, in General Orders dated the 3d of July 1806. And should the absence of such officers exceed the period for which they may have obtained the sanction of the Governor General in Council, that they obtain a satisfactory testimonial from the chief medical authority of the presidency or colony, to which they may have proceeded, that their state of health rendered such extension of their absence indispensably necessary. Fourth: That

5. *NATIVE OFFICERS IN THE REVENUE DEPARTMENT.*

UNDER the present system of conducting all details in the land revenue, as well as in other branches of the Revenue Department, through the local agency of European collectors, subject to the general superintendence and control of the Board of Revenue, or Board of Commissioners, the superior authorities have no occasion for a dewan, or other principal native officer, such as was found necessary when a large part of the revenues was collected at the presidency. But they have each an establishment of ministerial native officers, whose duties are not particularly defined by any regulation; being left to the discretion of the two Boards and their secretaries respectively.

What establishments of native officers attached to the Board of Revenue and Board of Commissioners for the upper provinces.

By whom their duties are regulated.

THE collectors of the land revenue, before the enactment of Regulation 15, 1813, "for the general abolition of the office of de-

Office of dewan to the collectors of the land revenue.

That the certificates so obtained, be submitted through the regular channels for the consideration of government, by whom, should it appear evident that the absence of the individual in question is occasioned by actual illness, a special order in each case will on the receipt of the certificates be passed, relieving such persons from the deduction at present established of one-third of their allowances. Fifth. That such of the rules before established regarding leave of absence, as are not specifically amended by the present resolutions, be considered to be still in full force and effect. Sixth. That the foregoing rules take effect from the 1st instant; that persons now absent from their stations, whether at sea or otherwise, be deemed entitled to the benefit of their operation from that date; but that no further retrospective claims, to the indulgence now proposed to be granted, be admitted. — Form of certificate A, by the surgeon or assistant surgeon, when a civil servant is obliged to quit his station from bad health. "I, A. B. surgeon at the civil station of — do hereby certify, that C. D. register of or — at — is in a bad state of health [from chronic, liver, or as the case may be,] and I solemnly and sincerely declare, that according to the best of my judgment, a change of air is essentially necessary to his recovery; and do therefore recommend that he may be permitted to proceed to — preparatory to any further course that may there be deemed necessary to the restoration of his health. A. B. surgeon at —. — January 26, 1814." — Form of certificate B, to be renewed monthly by the senior surgeon of a dependent station, or at the Presidency by the surgeon in immediate attendance on a sick civil servant, and to be confirmed in the latter case by the superintending surgeon of the presidency, or in his absence, by one of the members of the Medical Board. "I, A. B. surgeon at — do hereby certify, that C. D. register or — at — arrived here on the — in a bad state of health, [from chronic, liver, or as the case may be,] and I solemnly and sincerely declare, that according to the best of my judgment, he is still in such a state as to render it improper that he should yet return to resume the duties of his office. A. B. surgeon. — January 26, 1814." "Confirmed by E. F. superintending surgeon."

Amended by
Reg. 15, 1813.

§ 2.
Rule enacted for
this purpose.

Former rule defining the duties of dewans intermixed with those relating to other native officers, and the rule is therefore that in the sequel. Lower provinces, Reg. 2, 1793; § 9. Benares, Reg. 5, 1795; § 9 Upper provinces, Reg. 25, 1803. § 9. Dewan, and other native officers under a collector, to obey his orders and not to perform any act of authority without his sanction.

Reg. 2, 1793,
§ 11. Reg. 25,

wan to the collectors," had, under each of them, a principal native officer, denominated dewan, whose duties, with those of the other native officers on the establishments of the collectors, were defined by specific rules. But it was enacted by Section 2, of the abovementioned regulation, passed on the 13th November 1813, "that the office of dewan to the collectors of the land revenue shall be abolished from and after the 1st of January 1814.* This rule of course supersedes such of the provisions contained in Regulation 2, 1793, Regulation 5, 1795, Regulation 25, 1803, and generally in any other regulation, as require the appointment of dewans in the different districts, or define the duties of the dewans, or relate in any other manner directly or indirectly to those offices."

As, however, the provisions referred to are intermixed with those relating to the other native officers under the collectors, and the exhibition of them may be still useful in showing the duties of the office of dewan, as established at the period of its abolition, the whole are included in the following statement. 1. "The dewan, and all other native officers under the collector, are to act agreeably to his orders, and such rules as he may prescribe. They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months salary, or of being dismissed from their offices; and also of being sued in the court of judicature for damages, by any person who may consider himself aggrieved by such unauthorized act." 2. "The khazanchee, or native cash-keeper, in each zil-

* The following reasons are assigned for this measure in the preamble to Regulation 15, 1813. "Whereas, under the existing regulations, a native officer is appointed in each district, under the official designation of dewan, for the performance of certain specified duties, and for the purpose of aiding the collectors generally in the discharge of the public functions of their stations; and whereas considerable inconvenience has been experienced from the existence of that office, in some instances from the abuse of the power and influence possessed by the dewans, in others from disagreements between the collectors and those native functionaries, and from other causes; and whereas it will conduce to the public interests, that the several branches of the public business in the offices of the collectors should be conducted by distinct and separate establishments, subject only to the direct and immediate control of the collectors themselves, the following rule has been enacted, to be in force from and after the 1st of January 1814, throughout the territories immediately dependent on the presidency of Fort William."

lah, is to be nominated by the collector, who is to take good and sufficient security from him, for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge. The collector is to transmit the names of the person, whom he may nominate to the office of khezanchee, and of his surety, with a copy of the engagements executed by the latter, to the Board of Revenue, or Board of Commissioners; but the person so nominated, shall not be considered as appointed until the Board shall have signified their approbation both of him and his surety. The native cash-keeper, so appointed, shall not be removed, but for misconduct, or other sufficient cause proved to the satisfaction of the Board of Revenue, or Board of Commissioners; and he and the collector shall be held jointly and severally responsible to government, for the public money committed to their charge.”* 2. “All issues from the treasuries of the collectors are to be made under a warrant signed by the collector, and sealed with the seal of the zillah, and countersigned by the dewan; who shall write, under his signature, the sum for which the warrant may be granted. The native cash-keeper is prohibited paying any money without such written authority, under the penalty of being made responsible for it, should the payment be afterwards found to have been unduly made. These warrants are to be numbered, and a register of them is to be kept in the current language of the country, by the keepers of the native records, who are to attest, by their respective signatures on the face of the warrant, that it has been duly registered.” 4. “The collectors are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may

1803, § 18.
Native cash-keeper, by whom to be nominated, and security to be taken from him

Reg. 2, 1793, § 12. Reg. 5, 1795, § 12. Reg. 25, 1803, § 11.
Form to be observed in issuing public money.

Reg. 2, 1793, § 25. Reg. 5, 1795, § 23. Reg. 25, 1803, § 25.
Receipts to be given for all payments into the

* The native treasurer in Benares being appointed by the rajah, in conformity with the second article of the agreement entered into with him, on the 27th October 1794, the rule prescribed for that province, by Section 2, Regulation 5, 1795, is, that “the khezanchee, or native cash-keeper at Benares, is to act under the orders of the collector; who is to report to the Board of Revenue all instances in which he may have cause of complaint, against the khezanchee or his agents. The khezanchee is not to be removed from his office without the sanction of the Governor General in Council.” The latter part of this section has been since modified by the provisions of Regulations 5, 1804, and 8, 1809, which authorize the Board of Commissioners to sanction the removal of the khezanchee.

**Treasury; and
registers kept
of them.**

be received, and the species of rupee in which each payment may be made. The keepers of the native records are to keep a register of these receipts regularly numbered. After having registered the receipts, they are to attest, on the face of them, the date on which they may be registered. A copy of this register is to be transmitted monthly to the Board of Revenue, (or Board of Commissioners,) or as often as that Board may require. A similar register of receipts is to be kept by all tehsildars, sezawuls, or other native officers, entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the collector monthly, or as often as he may require." 5.

**Reg. 2, 1793,
§ 26. Reg. 3,
1795, § 24.
Reg. 25, 1803,
§ 25.
Receipts for
sums paid from
the treasury to
be deposited;
and register kept
of them.**

"The monthly or other receipts for salaries, pensions, or allowances, of whatever kind, which may be paid by the collectors, are to be deposited amongst the public records of their respective zillahs; and a register of them is to be kept by the keepers of the native records. A copy of the register is to be transmitted annually to the Board of Revenue, or Board of Commissioners." 6.

**Reg. 2, 1793,
§ 15, 16. Reg.
3, 1795, § 15.
16. Reg. 25,
1803, § 14, 15.
Prohibitions
against dewan
and other native
officers, or ser-
vants of collec-
tors, or assistants,
being concerned
in the revenues,
or purchasing
lands disclosed
of by the col-
lector at public
sale.**

"The dewans, and all other natives in the employ of a collector, or assistant, are forbidden to "hold directly or indirectly, any farm; or to be concerned on their private account, in the collection or payment of the revenue of any lands in the zillah, either as farmers, sureties, or otherwise." And native officers and private servants, and dependents of collectors and assistants, are prohibited "from purchasing directly or indirectly, any land that the collector may dispose of at public sale, under the penalty of forfeiting the property to government, upon proof being made to the satisfaction of the Governor General in Council of the property having been so purchased." But this rule is not meant "to prohibit a dewan, or other native officer of a collector, or any private servant of a collector, or an assistant, from purchasing bonâ fide the proprietary right in lands situated in the zillah, by private sale." 7.

**Reg. 2, 1793,
§ 18, 19. Reg.
3, 1795, § 18,
20. Reg. 25,
1803, § 17, 18.
Dewans also ex-
cluded from
commercial
transactions;
and from lend-
ing money to**

The dewans of collectors (before the abolition of their office) were further restricted from being, "directly or indirectly concerned in trade, or in any commercial transaction whatever; as well as from lending money, directly or indirectly, to any proprietor or far-

mer

mer of land, dependent talookdar, under farmer, or ryot:* And loans made in opposition to this rule were declared not recoverable in any court of judicature.

any landholder,
farmer, depen-
dent talookdar,
or ryot.

BESIDES the native officers immediately attached to the collector's cutcherry, and usually called his sudder serishtah, or principal establishment, there are, in all districts where the number of separated talookdars, or other proprietors of small estates, has been found to require them, tehseeldars, or native collectors, who receive the revenue payable by the landholders, within their respective tehseeldary divisions, and remit the amount to the collector's treasury. These officers, in the lower provinces, are merely agents, responsible only for their actual collections; and they were chiefly appointed to receive the fixed assessment of the separated talookdars, who by Section 14, Regulation 8, 1793, were "required to pay their revenue, in future, immediately into the collector's treasury, except in districts where, from the number of talboks, or other cause, this mode would be attended with considerable inconvenience;" in which case it was provided, "tehseeldars, or native collectors, are to be appointed to receive the revenue of the talooks in such districts." But in Benares, where they were allowed a commission on the revenue funds entrusted to their management, amounting in the first instance to twelve and a half per cent, (under the denominations of *deh-yek* and *blurray*); and after their exoneration from the charge of the police, by the provisions of Regulation 14, 1807, calculated at ten per cent upon the annual amount of the public revenue collected by them, (as fixed by Section 14, of that Regulation); in consideration of the liberal rate of commission received by the tehseeldars, they were (by Section 6, Regulation 6, 1795,) declared "responsible to government, for the regular realizing of the annual amount of

Establishments
of tehseeldars;
or native col-
lectors, in dis-
tricts requiring
them.

Nature of of-
fice of tehseel-
dar in the low-
er provinces.

And rule for
their appoint-
ment in Sec. 14,
Reg. 8, 1793.

Commission al-
lowed to teh-
seeldars in Be-
nares; and re-
sponsibility at-
tached to them
in that pro-
vince.

As declared by
S.c. 6, Reg. 6,
1795.

* "Every tehseeldar," is also included in Section 18, Regulation 25, 1803, for the upper provinces. And the policy which dictated the expediency of keeping the collector's principal native officer free of all pecuniary transactions of a private nature, with the landholders, farmers, and ryots, in the zillah where he is employed, seems equally applicable to the tehseeldars, and any other officers entrusted with a charge in the collections.

the jumma assessed on the mushukhusy lands, within their respective tehseeldarries, the revenue of which is not paid huzzoory, or immediately to the collector; as well as for the annually ascertained revenue funds of those lands that may remain amauny; such responsibility on their parts being considered as rendering them liable to make good to government, from their own property, whatever deficiencies in the collection of the said ascertained funds may be proved to have arisen either from their wilful neglect, or inattention, or from direct embezzlement;" to which purport, it was added, "engagements are to be taken from them by the collector." The following rules were also established by Section 2, Regulation 27, 1803, relative to the provinces ceded by the Newab Vizeer, and extended to the remainder of the upper provinces by Section 18, Regulation 8, 1805. *First.* "Tehseeldars, or native collectors, shall be appointed to collect the public dues from those lands, for the payment of the revenue from which settlements may not have been concluded with the zemindars, or other actual proprietors; and generally, to collect the revenues of such lands as the collectors may deem it expedient to place under them." *Second.* "The tehseeldars shall be selected by the collectors, who are required to pay the utmost attention to their character and responsibility. The name of the person proposed for that office, shall be submitted by the collector to the Board of Revenue (now Board of Commissioners *) and no actual appointment shall take place, without the previous sanction of that Board." *Third.* "In all practicable cases, the amount of the revenue, to be collected by each tehseeldar, shall not be less than two lacs of rupees, nor exceed the sum of three lacs of rupees per annum; including every description of collections entrusted to his management. Where it may be deemed expedient by a collector to entrust a tehseeldar with a collection exceeding the sum of three lacs of rupees, he shall report the same to the Board of Commissioners

Rules for appointment of tehseeldars, and defining their responsibility, in upper provinces, contained in Sec. 2, Reg. 27, 1803. Revenue to be collected by tehseeldars, where no settlement has been made with the proprietor.

Tehseeldars to be selected by the collectors for the approbation of the Board of Commissioners.

Collections to be made by tehseeldars, in ordinary cases, not to be less than two, nor beyond three, lacs of rupees.

No collection, beyond three lacs, to be established, without the sanction of the Governor

* The *Board of Commissioners* being substituted for the *Board of Revenue*, in the upper provinces, the designation of the former is used in the subsequent parts of the rule here cited.

in order that they may submit such reference for orders of the Governor General in Council." *Fourth.* "The collectors shall be careful to prevent persons holding more than one situation as tehseeldar, by obtaining these appointments in other pergunnahs, or in other districts, in the names of their connexions or dependents. The collectors shall also be careful that the persons appointed tehseeldars are principals, and not employed as agents for their sureties." *Fifth.* "The tehseeldars shall be allowed eleven and a half per cent on the amount of their gross collections; in consideration of which, they are to bind themselves to defray all charges, and to cover all risks and expenses whatever of the collections; to make good all balances of revenue which may accrue in their respective jurisdictions; as well as such advances as government may authorize them to make to ryots and others, for the purpose of assisting them in the cultivation of their lands." *Sixth.* "In consideration of the allowance specified in Clause Fifth, the tehseeldars shall further become bound to maintain an efficient police in their respective jurisdictions; with an exception as to cities, large towns, and principal gunjes; the police of which will be maintained by government." *Seventh.* "The tehseeldars shall give good and sufficient security, (to be approved of by the Board of Commissioners,) for the due and faithful performance of the trust reposed in them, to the amount of the largest kist recoverable by them, respectively, in each year." *Eighth.* "A tehseeldar falling in arrear, to the amount of one whole kist, shall be liable to be removed; and a report of the arrear so incurred shall be made, without delay, to the Board of Commissioners." *Ninth.* "Tehseeldars shall make the usual advances of tuccavy at the proper periods, for the purpose of seed, cattle, and implements of husbandry; taking bonds for the same, bearing interest at the rate of twelve per cent per annum. The tuccavy bonds shall be attested by the chowdries, canongoes and mukudums; and the number of begahs, for the cultivation of which the advance is made, shall be specified in the bond." *Tenth.* All engagements whatever, concluded immediately by the tehseeldar, shall

General in Council.

No person to hold more than one situation as tehseeldar.

Principals only to be employed.

Tehseeldars to be allowed eleven and a half per cent on the gross collection. And to be generally responsible for the recovery of the revenue; as well as of advances made by government to promote cultivation.

Tehseeldars to maintain police establishments, from their allowances with certain exceptions.

Police in large towns and gunjes to be maintained by government.

Tehseeldars to give security equal to the amount of the largest kist.

Tehseeldars in arrear of one kist liable to be removed.

Tehseeldars to make the usual advances of tuccavy.

Bonds how to be taken for such advances.

All engagements are to be made by the tehseeldars in

the name of government.

Persons to be entitled to pay their revenue direct to the collector, if injured by the tehseeldar.

Such persons to find security.

But no representation to be made without the sanction of the Board of Revenue.

Alteration in mode of paying the tehseeldars, and their consequent responsibility, made by Reg. 21, 1806.

On the death, resignation, or removal of any of the present tehseeldars, government will fix the allowances of their successors on a consideration of amount of the revenue, his estate in the country, or other local circumstances. Rule to be observed by the collectors, and magistrates, in such cases.

shall be made and granted in the name and on the part of government; in as much as the tehseeldar acts for, and is to be regarded in all cases as the officer of, government." *Eleventh.* "Where a person, paying revenue to government, may be dissatisfied with the conduct of a tehseeldar, and shall prove, to the satisfaction of the collector, that the tehseeldar has been guilty of misconduct towards him, such person shall be entitled to the privilege of paying his revenue direct to the treasury of the collector, provided that the complainant shall give good and sufficient security for the regular discharge of his kists. But no separation of this nature shall take place without a previous reference to the Board of Commissioners; and the collectors shall be careful that the authority, and influence of the tehseeldars, be not lessened on light and insufficient grounds."

THE nature of the office of tehseeldar in both the province of Benares, and the ceded and conquered provinces, has however undergone a change, not only in his being removed from the charge of the police, for the reasons stated in the second part of this Analysis,* but in the extent of his compensation and consequent responsibility, under the following provisions, contained in Regulation 21, 1806. "Whenever any of the present tehseeldars in the above mentioned provinces shall die, or shall resign, or shall be removed from office on account of misconduct, the Governor General in Council will fix the personal allowances which it may be proper to grant to their successors; and likewise, the amount which it may be proper to allow to them for the maintenance of establishments, on a consideration of the amount of the revenue to be collected by such tehseeldars; of the extent of country comprised within the limits of their respective tehseeldaries; and of other local circumstances. It shall accordingly be the duty of the collector of the district in which any tehseeldar may die, or resign, or be dismissed from office, to report to the Governor General in Council, through the Board of Commissioners, the amount of the

personal salary which the collector would propose to be granted; on the principles above stated, to the new tehseeldar; and of the establishment which he would propose to be allowed for the collection of the public revenue. Tehseeldars appointed under the present regulation shall be responsible for the jumma of the meahals, included within their respective tehseeldaries; provided, however, that if any losses shall be proved to the satisfaction of the Governor General in Council, to have arisen from the impracticability of realizing any balances due from zemindars, farmers, or others, by the sale of their property, or by other legal means; or if the Governor General in Council shall, in any particular case, deem it just and proper to grant remissions in favor of any of the said zemindars, farmers, or others; the tehseeldars shall obtain abatements proportioned to the amount of such losses or remissions. Provided also, that the tehseeldars shall obtain abatements from the jumma specified in their engagements, in proportion to the actual losses which may be proved to the Governor General in Council to have been sustained in lands held amauany."

Tehseeldars appointed shall be responsible for the jumma of their tehseeldaries under certain restrictions.

By the provisions of Regulation 21, 1793, extended to Benares by Regulation 30, 1795, and re-enacted for the upper provinces by Regulation 23, 1803, an office was established in each zillah "for keeping all records and papers in the native languages, which in any respect relate to the public revenue." This office is placed under the superintendence of two natives, styled "keepers of the revenue records in the native languages." They form part of the collector's establishment; and under the rules now in force for the appointment, and removal of native officers (as hereafter detailed) they are nominated by the collector and confirmed, as well as removed, by the Board of Revenue or Board of Commissioners. But they were originally appointed by the Governor General in Council,* and declared not to be removable, except

Lower provinces, Reg. 21, 1793, § 2, 3, extended to Benares by Reg. 30, 1795. Upper provinces, Reg. 23, 1803, § 2, 3. Record office established in each zillah for keeping records and papers, in native languages relative to the public revenue.

* The office of canoongo having been abolished in the lower provinces, as no longer requisite under a permanent assessment of the land revenue, the Governor General in

Object of this institution, as stated in preamble to above regulations.

Rules prescribed in Sec. 4, 5, 6, 7, and 8, of regulations above mentioned.

Section 4.
What register to be kept and in what languages.

By whom to be attested.

What accounts and papers to be first entered.

Section 5.
What to be endorsed on each paper registered.

Section 6.
Care to be taken that records are not destroyed; or removed without the collector's order.

Section 7.
In what cases records to be liable to destruction.

cept for misconduct proved to his satisfaction. The office was at the same time, "expressly declared not to be hereditary." The object proposed by the institution of this office was, "that all accounts and papers regarding the assessment, and the allotment of the revenue on the shares of estates that may be divided, as well as all other documents in any respect relating to the public demand upon the lands, should be carefully preserved." For the attainment of this object the following rules were prescribed. 1. "The keepers of the records are to keep a register in the Bengali and Persian languages in Bengal and Orissa, and in the Persian language in the other provinces, of all accounts, papers, and documents, in any respect relative to the public revenue, in a book or books which shall be paged, and each leaf of which shall be attested by the judge of the Dewanny Adawlut of the zillah; and who shall insert in his own hand writing on the last leaf of each book he may so attest, the number of pages contained in it. The accounts and papers now deposited in the several zillahs are to be first entered in the register, and the keepers of the records are to prepare a list of them for that purpose immediately upon the receipt of this regulation." 2. "The keepers of the records, or one of them, shall endorse on the back of every paper which may be registered, the number of the page in which it may be registered, and attest the endorsement with his or their official signature." 3. "The keepers of the records are to be careful, that the accounts and other records are not destroyed by insects, damp, or otherwise, and that they are not removed from the office of the collector, without his express orders." 4. "If any papers or records entered in the register, shall be destroyed in consequence of the neglect, or any omission, of the keepers of the records, or if any such records or papers shall not be forth-

Council, on desiring the Board of Revenue to recommend two keepers of the revenue records, for each zillah in Bengal, Bahar, and Orissa, under Regulation 21, 1793, added (in his letter dated 30th January 1797) "you will give a preference in the selection to the officers stationed on the part of the head canoongoes in the several collectorships, previous to the abolition of the canoongo office, provided they be qualified for the office by their character and abilities."

coming,

coming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismissal from their office." 5. "The keepers of the records are enjoined to attend to all rules or orders respecting the duties of their office, which may be prescribed to them by any regulation; and also to any directions respecting the better keeping, preserving, or registering the accounts and other records of the zillah, which may be issued to them by the collector, under whose superintendence they are to perform the duties of their office."

Section 8.
What rules and orders to be observed by keepers of the records.

A SALARY of thirty rupees per mensem, payable by government, was fixed for the several record keepers appointed under the above rules; and the Governor General in Council deeming it reasonable that the individuals, whose rights and property might derive additional security from the institution of a record office, should contribute to the expense of it, the following rules were established for a fee to be levied by the collectors, on the registry of any division, union, or transfer, of estates paying revenue, or of lands held exempt from the payment of revenue. 1. "Fees at the following rates shall be levied by the collectors of the revenue on the registry of any division or union of an estate, or estates, or of lands held exempt from the payment of revenue. On any division of an estate, or union of estates, paying revenue to government, that may take place under the prescribed regulations; at the rate of one quarter or four annas per cent, on the annual jumma or revenue payable to government, from the property included in the union or division. On any division of lands exempt from the payment of public revenue, or any union of such lands, forming originally part of the same grant, made by the proprietor or proprietors of the grant; at the rate of two and a half per cent on the amount of the annual produce of the property included in the union or division." 2. "Fees at the following rates shall be levied by the collectors on the registry of any transfer of the whole, or the part, of an estate or estates, or lands held exempt from the payment of revenue, by deed of sale, or gift, or otherwise. If the

Salary fixed for the record-keepers; and fees established to defray the amount.

Rules for this purpose, in Reg. 15, 1797, for the lower provinces and Benares. Re-enacted for upper provinces in Sec. 9 to 16, of Reg. 13, 1803.

Fees to be levied by the collectors on registry of the division or union of estates, or lands held exempt from assessment. On estates paying revenue, four annas per cent on the annual jumma.

On estates exempt from payment of revenue, two and half per cent on the annual produce.

Fees to be levied on the registry of transfers of land.

On lands paying revenue and

quarter per cent on the annual jumma.

On lands exempt from payment of revenue, two and a half per cent on the annual produce.

What is to be considered the annual jumma payable to government.

And what the annual produce of lands exempt from payment of revenue.

Mode of compelling the production of accounts to ascertain the annual produce.

Penalty for non-compliance.

Fees and fines how to be levied.

Fee not to exceed one hundred sicca rupees in any one instance.

the estate shall be subject to the payment of revenue to government, one quarter or four annas per cent, on the annual jumma or revenue payable to government from the property transferred. If the lands shall be held exempt from the payment of revenue to government, two and a half per cent on the amount of the annual produce of the lands transferred.” 3. “By the annual jumma payable to government, is to be understood the amount of the revenue payable to government for the year in which the division, union, or transfer, may be registered, according to the permanent settlement; or the engagements of the farmers, if the lands be farmed; or the estimated receipts, if no settlement of the lands shall have been concluded on the part of government, either with the proprietors or with farmers; and by the annual produce of lands, held exempt from the payment of revenue, is to be understood, the amount of the rents received and receivable by the proprietor, or the possessor of the lands, on account of the year preceding the year in which the division, union, or transfer may be registered; and the person in possession of such accounts, shall be bound to produce them on a written requisition from the collector, and shall be subject, for non-compliance therewith, to the payment of such daily fine, until the accounts be produced, as the Board of Revenue, or Board of Commissioners, may think proper to impose, on a consideration of the situation and circumstances in life of the party.” 4. “The amount of the fees and the fines leviable under this regulation, shall be payable to the collector on his demand; and if not discharged, shall be leviable by the same process as the payment of arrears of revenue due to government may be enforced.” 5. “No person shall be liable under this regulation to the payment of a greater sum than one hundred sicca rupees, on account of any transfer of an estate, or part of an estate, or of lands held exempt from the payment of revenue; or any division of an estate, or the union of any estates; or of lands held exempt from the payment of revenue; and accordingly, when the fee or any such transaction would, calculating according to the rates above prescribed, amount to a greater sum than

than one hundred sicca rupees, the excess above that sum shall not be demanded or received.” 6. “The fees on the division of any estate, or the union of estates, paying revenue to government, shall be paid on the registry of the same, by the party or parties who are bound to pay the charges attending the division of estates; and in the same proportions. If the property divided, or united, be lands held exempt from the payment of revenue, the fees shall be paid by the parties, in whose names the property may be registered, in the proportion of their respective interests therein.” 7. “The fees on the transfer of landed property, by deed of sale, or gift, or otherwise, shall be paid by the party, to whom the property may be transferred, on the transfer being entered in the public registers of lands.” 8. “All sums which may be received by the collectors under this regulation shall be carried to the account of government; and the collectors are required to grant receipts to the parties, for the amount which may be paid by them respectively.”

Fees by whom to be paid, on division, or union, of estates paying revenue to government; or of lands held exempt from revenue.

Fees by whom to be paid; on transfers of landed property.

Fees to be carried to the credit of government, and collectors to grant receipts.

AFTER the conclusion of a perpetual settlement of the land revenue in the provinces of Bengal, Behar, and Orissa, the canoongo office, sudder and mofussil, was considered unnecessary; and consequently abolished, to save the actual expense; with a considerable addition, which would have been requisite to render it efficient for the original purposes of its institution. The following reasons for the abolition of this office, were stated by Marquis CORNWALLIS.* “The public assessment on the “lands is fixed throughout the country. The detail of it is “contained both in the specific engagements concluded with “the landholders, as well as in the records of the collectorships,

Canoongo office, sudder and mofussil abolished in lower provinces, after conclusion of the permanent settlement.

Reasons for this measure.

* In his minute proposing the arrangements for the Revenue and Judicial Departments, which took place in May 1793. The order for abolishing the canoongo office was not issued however till the 5th July 1793. Pensions for life were at the same time granted to the sudder canoongoes, in consideration of the length of time during which the office had been held by them. Many of the mofussil naibs, or gomastahs, were employed as record-keepers, under the selection before noticed: or to keep the registers of landed property hereafter mentioned; and others, who appeared to be objects of humane consideration, were provided with a maintenance, under the rules for pensions contained in Regulation 24, 1793.

“ and the Board of Revenue. The rights of the landholders
 “ and cultivators of the soil whether founded upon ancient cus-
 “ tom, or on regulations which have originated with the British
 “ Government, have been reduced to writing. The canoongoes
 “ are no longer necessary to explain rights of the former descrip-
 “ tion, and they are wholly unacquainted with the latter. The
 “ courts of justice will have their codes of regulations to guide
 “ them in their decisions, respecting the rights and property of
 “ the people. Suits between individuals, or between Government
 “ and its subjects, regarding the revenue, will be decided by the
 “ engagements subsisting between the parties; and if a local cus-
 “ tom is required to be ascertained, better evidence regarding it
 “ will always be obtainable from inhabitants of the district of res-
 “ pectable character, than could be procured from the mofussil
 “ canoongoes; whose official attestations and declarations have long
 “ since fallen into contempt and disregard, in the eyes of the peo-
 “ ple, from having been invariably made the cloak to every species
 “ of fraud and abuse. These officers therefore are not only useless,
 “ but their continuance would be prejudicial to the country.”
 The office of canoongo being accordingly abolished, throughout the
 lower provinces, the records of the mofussil naibs, gomastahs, and
 mohrirs, were ordered to be delivered over to the collectors; who
 were authorized, if necessary, to proceed for the recovery of them
 in the mode prescribed by Section 16, Regulation 3, 1794, (here-
 after mentioned;) and were required to furnish the Board of Re-
 venue with a list of the records so delivered; as well as to be careful
 in preserving them. The Board of Revenue were likewise direct-
 ed to require from the late sudder canoongoes and their naibs the
 whole of the records kept in their respective offices; and after
 causing a list to be taken, were desired to submit it to government,
 with their sentiments in what manner these records should be dis-
 posed of for the public service. This was done accordingly; and
 the records are deposited, for occasional reference, under native
 officers who have the immediate charge of them, subject to the
 superintendence of the Board’s accountant.

Lower provin-
 ces, Reg. 3,
 1800, § 12.
 To whom the
 records of the
 office were de-
 livered; and or-
 ders given for
 preservation of
 them.

THE assessment not having been fixed in perpetuity for the upper provinces, the reasons which determined the Governor General in Council to discontinue the office of canoongo, in the lower provinces, were not applicable to the former; and from information, communicated by the local officers, it appeared that this office had been found of great utility under the administration which preceded that of the Company. It was further expected, that the continuance of this office, under rules and restrictions, would be productive of public benefit in the province of Benares, as well as in the ceded and conquered provinces; and the following rules were therefore prescribed by Regulation 4, 1808. Section 2. "Two persons shall be immediately appointed in every pergunnah in the ceded and conquered provinces, and in the province of Benares, to execute the office of canoongo." Sec. 3. "These officers shall be selected in all practicable cases by the collectors, from the number of the canoongoes who have heretofore discharged the duties, and shall be nominated for the approval of the Board of Commissioners, and shall not be removable from office except for sufficient cause proved to the satisfaction of that Board, under the provisions of Regulation 5, 1804. Sec. 4. "The office of canoongo is declared not to be hereditary; but in the original nomination, and in supplying future vacancies, the collectors shall make it a rule, in all practicable cases, to select from the families of the canoongoes, such persons as, from character, education, and acquirements, shall be best qualified to perform the duty." Sec. 5. "The canoongoes appointed under this regulation, shall receive such salaries as the Governor General in Council may think proper to fix for their support. The salaries so granted shall be considered to preclude all claims to further pecuniary allowances, under the denomination of nankar, and any other denomination. It is also hereby declared, that the revenue of the lands hitherto held by the canoongoes generally, in the ceded and conquered provinces, in virtue of their offices, will be liable to resumption by government; and that this rule shall be considered applicable both to the persons who may be continued in the office of canoongo under

Reasons for discontinuing the office of canoongo not applicable to the upper provinces.

And continuance of the office considered beneficial in these provinces, as well as in Benares.

Rule established for this purpose by Reg. 4, 1808.

Two canoongoes appointed in every pergunnah.

How selected and nominated.

Office of canoongo not hereditary. Vacancies how supplied.

Allowance of canoongoes, and what it includes.

Lands formerly held by canoongoes, liable to resumption.

der the present regulation, and to those who may be discharged from the public service. Nothing however contained in this provision shall be construed to preclude the Governor General in Council from continuing to either of those classes of persons the whole or a part of the lands hitherto held by them respectively, free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence." Sec. 6.

Exception.

"The above rule is not to preclude claims to rent-free lands, or pensions held by the canoongoes, under grants made to the individuals for reasons unconnected with the office of canoongo." Sec. 7. "The canoongoes are to execute the duties herein specified.

Duties of the canoongoes.

To keep an account of collections by tehsildars and sezwuls.

To keep a counterpart jumma wassil bakee, or account of the collections of the tehsildars, from estates, the settlement of which has been concluded, and of the collections made by the tehsildars,

And an account of rent free lands; and to report escheats.

or by sezwuls, from lands held khaus, or under attachment. To keep an account of all lands held under rent-free tenures, whether the grants be hereditary, or otherwise; and to report to the collector all escheats of such lands to government.

To keep a list of putwaries, and a register of pottahs granted by the landholders to their under-tenants.

To keep a list of the putwaries in each village; and a register of pottahs granted by the

Also a register of transfers of estates.

landholders to their under-tenants. To keep a register of all transfers of estates by sale, (public or private) mortgage, lease, or otherwise; and to attest such transfers at the request of the parties,

And accounts of boundaries, villages, produce, rent, rules, and customs.

without fee, or gratuity, with their official signatures. To compile information regarding local boundaries of pergunnahs and estates;

To aid measurements.

the number and names of villages, articles of produce, rates of rent, rules and customs established in each pergunnah; and to furnish, at the requisition of the courts of justice, and of the collectors, all local information within their cognizance.

To keep the accounts required in a prescribed form.

To assist at all measurements of land, whether undertaken by the officers of government, in conformity to the regulations, or by the landholders, or ryots, and to record the same. To prepare and keep the information and accounts directed in this, or any future regulation,

To report death of malgoosars, and names of heirs.

in such manner and form, as may be from time to time prescribed by the Board of Commissioners. To report to the collector the death of a malgoozar, and the names of his heirs, and

to keep a register of all successions to lands." Sec. 8. "Persons who may be selected to fill the office of canoongo are hereby prohibited from holding farms, or from becoming sureties for farmers or zemindars, within the local limits of their official duties." Sec. 9. "On the death, resignation, or removal of a canoongo, the records of the office are to be made over to his successor; and the magistrate of the zillah is enjoined, on the application of the collector, to interpose his authority, in all cases, in which it may be necessary to enforce the surrender of such records." Sec. 10. "The refusal or manifest evasion of any person in possession of the records mentioned in the preceding section, to deliver them up, on the requisition of the magistrate, is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed by the regulations for resistance to the process of the magistrate." Sec. 11. "Nothing contained in this regulation, shall be construed to preclude the Governor General in Council from exercising the right of decreasing the number of canoongoes, of abolishing the office in any pergunnah where from local circumstances the duty may be performed by less than two persons, or by the canoongoes in a neighbouring pergunnah. Nor from exercising the right to increase the number of canoongoes in any pergunnah where, from circumstances, more than two may be found necessary." Sec. 12. "The collectors are enjoined to report to government through the Board of Commissioners, all instances therein they may deem it expedient to increase, or diminish, the number of canoongoes in a pergunnah, with their reasons at large for such opinion."

Canoongoes not to hold farms, or become sure-

Records to be made over to successors and how.

Refusal to give them up, how punished.

Right of government to vary the number of canoongoes.

Collectors to report when variations are necessary.

INSTANCES having occurred of sezawuls, tehsceldars, ameens, and other native officers employed under the collectors, withholding the public money, or official papers in their possession, as well as of their neglecting to attend the collectors for the purpose of adjusting their accounts, the following rules were enacted by Regulation 3, 1794, (extended to Benares by Section 27, Regulation 5, 1800; and re-enacted for the upper provinces by Regulation

Provisions for recovery of public money, or official accounts, from native officers employed under the collectors, in Reg. 3, 1794, § 15 to 21. Extended to Benares by § 27, Reg. 5, 1800. Re-enacted for upper provin-

Secs by Reg. 35, 1803. Extended to conquered provinces and Bundies and by § 23, Reg. 8, 1803. Collectors to take security for the personal appearance of the native officers herein specified.

Conditions to which the surety is to be bound.

Collectors how to proceed to recover public money or accounts in the possession of native officers.

33, 1803, for enabling the collectors to recover the public ducts, and papers, in such cases." 1. "The collectors are to take security for the personal appearance of the tehseeldars, sezawuls, amceens, dewans, sherishtadars, moonshies, mohurrers, and all native officers, entrusted with the receipt or payment of all public money, or the charge of public accounts, who now are, or may be hereafter employed under them, in their capacity of collectors of the revenue. The surety is to bind himself to produce the officer for whom he may become security, before the collector, whenever his attendance may be required, until he shall be discharged from the public service, and shall have received a writing from the collector, signifying that he has no demand upon him on the part of government, either for money, papers, or accounts, belonging to the public, that may have been committed to him, or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the collector may have upon him for public money, papers, or accounts, and be liable to be proceeded against in every respect in the same manner as the officer himself, had he been forthcoming when any such officer is removed, or resigns. The collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts, or money, that may have been committed to his charge. The collectors may require such officers to give new sureties, in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible." 2. "If a collector shall have a claim on the part of government on any of the native officers described in the preceding section, for a balance of accounts, or money or papers belonging to government, he is to require the payment of the money or the delivery of the papers, by a writing under his official seal and signature, and the signature of his dewan, or other head native officer of his duffer, for the time being, specifying the amount of the money, or particular papers required, and the date and place that may be fixed for the delivery of the money or papers. If the

the officer shall not discharge the money, or deliver up the papers, by the limited time, the collector is empowered to apprehend him, and convey him to the jail of the dewanny adawlut of the zillah; the judge of which court shall detain him in confinement, until the sum demanded of him shall be discharged, or he shall have delivered up the papers. The collector is authorized likewise to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him. If his property shall be in another zillah, he is to apply to the collector of that zillah, who shall cause it to be attached. The Board of Revenue, or Board of Commissioners, are empowered to order the property to be sold, under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue. In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the collector is to proceed against his heirs, by a regular suit in the court to which they may be amenable, for any claims which government may have upon the deceased. The suit is to be carried on by the vakeel of government, and at the public expense; and the rules regarding suits so carried on by the collectors, are to be held applicable to it." 3. "If any such native officer, who may have retained public money or papers in his possession, shall abscond, or not be forthcoming, the collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zillah; or, if he shall have taken refuge in any other zillah, and the collector shall deem it necessary to require his personal attendance, that he may proceed against him instead of his surety, the collector is to apply to the judge of the zillah, to request the judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended. The judge to whom the application may be made, is to convey the officer in safe custody to the jail of the zillah from which he may have absconded." 4. "If a collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained;

Collectors how to proceed when officers abscond, or are not forthcoming.

Collector how to proceed in case of the officer absconding, without having adjusted

his accounts, or omitting or refusing to attend for that purpose.

ed; and he shall not attend upon being required by a writing to that effect, under the official seal and signature of the collector, to be fixed up in his cutcherry, and at the place in the zillah at which the officer may have last resided; the collector is empowered to prepare the most accurate statement, that he may be able, of the money or papers in the possession of such officer; and proceed against the surety upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared, in the presence of the officer; or, he may cause the officer to be apprehended by his own authority, if he be within the limits of the zillah; or if he shall have taken up his abode in any other zillah, by application to the judge in the manner directed in the preceding rule. If it should afterwards appear upon enquiry before the court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession, the collector shall not be liable to pay any damages for having confined him; and all costs that may be incurred in the suit or inquiry shall be paid by the officer.” 5. “If any such officer, or his surety, shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole, or any part, of the demand made upon him by the collector, and find some responsible person who will become security, that he will institute a suit in the court, in fifteen days, against the collector, to try the demand, and to pay the sum that may be awarded against him, with costs, and interest at the rate of twelve per cent, from the date on which the sum may be demanded of him to the date of the decree, the court is to discharge the officer or surety, and proceed to the trial of the suit; and if any property belonging to the officer, or surety, shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.” 6. “If any such native officer, or his surety, shall be committed to custody by the collector, and shall not obtain his release in the mode

Officers or sureties confined for a demand of money, to be released in the case of a contested demand under security.

Native officers, or their sureties, at liberty

mode specified in the preceding rule, he shall nevertheless be at liberty, whilst in confinement, to sue the collector by whom he may have been confined, should he deem the demand upon him unjust." 7. "The collectors are to appoint one of the authorized vakeels of the courts to defend any suits which may be instituted against them by any such native officers, or their heirs, or sureties, under this regulation; and all the rules in Regulation 14, 1793, (or Regulation 27, 1803, in the upper provinces,) regarding suits instituted against the collector for sums demanded or received by him on behalf of government, and which are not repealed by this regulation are to be considered applicable to such suits."

Collectors to appoint authorized vakeels of the court to defend the suits herein specified.

It remains only to specify, under this head, the rules which have been enacted, in Regulations 5, 1804, and 8, 1809, for the appointment and removal of the native officers of government, employed in the revenue department; and as the latter regulation was passed subsequently to the completion of the first volume of this Analysis, (though noticed in the index, as having modified the provisions of the former regulation,) it will be useful to state the substance of both regulations, for the judicial, as well as the revenue department. Similar provisions being made by these regulations for the appointment and removal of the native officers employed in the commercial department, and in the departments of salt, opium, and customs, it will further obviate the necessity of repetition to state, at once, the whole of the rules in force, under these regulations, in all the departments to which they refer.

Rules for appointment and removal of native officers in revenue, judicial, and commercial departments, contained in Regulations 5, 1804, and 8, 1809.

THE objects proposed by Regulation 5, 1804, have been stated in the first part of this Analysis.* By the rules therein prescribed the confirmation of the appointment, resignation, and removal of the principal ministerial native officers, employed in the courts of Sudder Dewanny Adawlut and Nizamut Adawlut, the provincial courts of appeal and circuit, the zillah and city civil courts, and the courts of the magistrates in the several zillahs and cities, as

Objects proposed by regulation V, 1804, already stated. Reasons for modifying part of the rules in that regulation, as stated in preamble to Regulation 8, 1809.

* Volume I, page 166.

well as of the principal native officers employed under the Boards of Revenue and Trade, the collectors of the revenue and customs, the commercial residents and agents, and the agents for the provision of salt and opium, was reserved to the Governor General in Council; to whom was also reserved the confirmation of the appointment, resignation, and removal of the law officers of the several courts of justice; the *cauzy-ul-cuzaut*, and the *cauzies* of the several cities, towns, and *pergunnahs*; the keepers of the records of the courts of judicature and collectorships; the police *darogahs*; and the other principal officers of the police. It was at the same time required by Section 6, of the regulation abovementioned, that whenever the authorities specified might see cause for the removal of any of the native officers in question, they should, after communicating to such officer the grounds upon which he might be considered undeserving of continuance in his station, and calling upon him to state what he might have to offer in his defence, transmit through the prescribed channel of public correspondence, to the Governor General in Council, a report of the circumstances of the case; with a copy and translation of the communication made to the officer, and his answer; accompanied by a copy and translation of any proceedings or documents referred to in the report, which might be material to the case, and appear necessary for the full information of the Governor General in Council. A similar mode of proceeding was directed with respect to other descriptions of native officers, the confirmation of whose appointment, resignation, and removal, was left to the courts of *Sudder Dewanny Adawlut* and *Nizamut Adawlut*, or to the Board of Revenue or Board of Trade. The observance of these rules was found to occasion considerable labour and occupation of time, in the public offices, to the interruption of other business of importance; and it was considered, that the object of them might be effectually attained, with some modification of the requisition for a full report of proceedings, by transferring to the courts of *Sudder Dewanny Adawlut* and *Nizamut Adawlut*, and the provincial courts of appeal and circuit, to the Boards of Revenue and Trade, and to the Board

Board of Commissioners in the upper provinces, the power of confirming the appointment, resignation, and removal of the native officers specified, excepting only the law officers of the courts of Sudder Dewanny Adawlut and Nizamut Adawlut, whose appointment and removal, from the nature of their functions, should be still reserved to government. The local knowledge possessed by the courts of circuit, and the number of cases brought before them at the zillah and city jail deliveries, in which the conduct of the police officers fall within their observation, appeared to render it particularly expedient, that those courts should control the appointment and removal of the cutwals, police darogahs, and other principal officers of the police. And it was judged necessary to declare, with respect to these and other native officers, that they would be liable to removal from the public trusts committed to them, although no specific act of criminality might be established against them, when there is sufficient reason to consider them incapable, or neglectful of their prescribed duties; or in any respect unworthy of public confidence; especially, with regard to the police officers, when robberies or other public crimes may become prevalent within the local limits of their jurisdictions. The rules contained in Regulation 5, 1804, were accordingly modified by the provisions of Regulation 8, 1809, to the following effect.

1. THE Courts of Sudder Dewanny Adawlut, and Nizamut Adawlut, the provincial courts of appeal and circuit, the Boards of Revenue and Trade, and the Board of Commissioners in the western provinces, shall hereafter exercise, without reporting their proceedings for the sanction of government, the power of appointing, removing, and accepting the resignation of, the principal ministerial native officers acting under them respectively; as well as all other native officers on their respective establishments; excepting the law officers attached to the Courts of Sudder Dewanny Adawlut, and Nizamut Adawlut; whose nomination, removal, and resignation, shall be reported, as heretofore, for the previous sanction of the Governor General in Council.

R. 8, 1809,
§ 3,
Native officers
of Courts of
Sudder Dew-
anny Adawlut
and Nizamut
Adawlut, of
Provincial
Courts of Ap-
peal and Cir-
cuit, of Boards
of Revenue and
Trade, and of
Board of Com-
missioners in
Western pro-
vinces, by whom
to be appointed
and removed.

2. THE

Reg. 8, 1809,
§ 4, and 8.
Appointment
and removal of
law officers of
provincial, zillah,
and city
courts, native
commissioners
for civil suits,
and causes of
cities, &c. by
whom to be
confirmed.

2. THE court of Sudder Dewanny Adawlut is empowered to confirm the appointment, removal, and resignation, of the law officers of the provincial, zillah, and city courts; of the native commissioners for the trial of civil causes; and of the cauzies of cities, towns, and pergunnahs; on receiving from the provincial zillah, and city courts, the reports hereafter mentioned relative to such officers respectively.

Reg. 8, 1809, §
8, and 7.
Appointment
and removal of
principal ministerial
officers of zillah
judges, and magistrates,
of Cutwals, and
police darogahs, of record-
keepers of zillah
courts, and
of other native
officers of those
courts, receiving ten rupees
per mensem, or
upwards, by
whom to be
confirmed.

3. THE provincial courts of appeal and circuit are empowered to confirm the appointment, removal, and resignation, of the principal ministerial native officers of the zillah and city judges and magistrates; of the cutwals and police darogahs within their respective divisions; of the record-keepers of the zillah courts, civil and criminal; and of any other native officers on the establishments of those courts, whose salary may amount to ten rupees per mensem, or upwards; on receiving from the zillah and city judges, or magistrates, the reports hereafter specified, concerning such officers.

Reg. 8, 1809,
§ 10.
Appointment
and removal of
head native officers,
under collectors of
revenue, and
customs, of record-keepers,
khezanchees,
and tehseeldars,
and other native
officers under
collectors, receiving ten
rupees per mensem,
or upwards, by
whom to be
confirmed.

4. THE Board of Revenue, and Board of Commissioners in the upper provinces, are authorized to confirm the appointment, removal, and resignation, of the head native officers employed under the collectors of revenue and customs; of the record-keepers, khezanchees, and tehseeldars in the several collectorships; and of all native officers on the establishments of the collectors of revenue or customs, whose salary may amount to ten rupees per mensem, or upwards; on receiving from the collectors the reports required from them regarding such officers.

Reg. 8, 1809,
§ 10.
Appointment
and removal of
head native officers
under commercial residents
and agents, and agents
for salt or opium, as well
as of other native
officers.

5. THE Board of Trade is authorized to confirm the appointment, removal and resignation, of the native officers employed under the commercial residents and agents, and the agents for the provision of salt and opium; as well as of all other native officers on the establishments of such residents or agents, whose salary may amount to ten rupees per mensem, or upwards;

wards; on receiving from the commercial residents and agents, or from the agents for the provision of salt or opium, the reports which they are required to transmit respecting such officers.

der them, receiving ten rupees per mensem, or upwards, by whom to be confirmed.

6. WHENEVER any of the native officers referred to in the five preceding rules may be desirous of resigning his office, the court, board, magistrate, collector, commercial resident, or agent, to whom the officer desiring to resign may be immediately subordinate, is required to receive and record his resignation in open court, or cutcherry; and if the resignation be from any of the officers described in the second, third, fourth, or fifth of the above rules, it is to be transmitted to the proper authority, thereby empowered to accept and confirm such resignation. The resignations of the officers specified in the first rule are to be kept amongst the records of the courts, or boards, therein mentioned; except the resignations of the law officers of the courts of Sudder Dewanny and Nizamut Adawlut, which are to be transmitted to the Governor General in Council.

Reg. 5, 1804, § 5. Modified by Reg. 8, 1809. Mode of proceeding to be observed on resignation of any of the native officers referred to in the five preceding rules.

7. WHENEVER the courts of Sudder Dewanny and Nizamut Adawlut may see cause for the removal of either of the law officers attached to those courts, they are to refer the same to the Governor General in Council. And whenever the provincial courts of appeal and circuit, the zillah and city judges and magistrates, the collectors of revenue and customs, the commercial residents and agents, or the agents for the provision of salt or opium, may see cause for the removal of any of the native officers mentioned in the second, third, fourth, or fifth rules, on the ground of any misconduct, or neglect of duty, experienced incapacity, or other disqualification, they are to report the circumstances of the case, with their opinion on the subject, to the proper authority, empowered to order and confirm the removal of such officer. The court, or board, receiving the report so made is to pass such final order upon it as may appear proper; or to call for any additional information, or direct any further inquiry, which the nature and circumstances of the

Reg. 8, 1809, § 4, 5, 7, 8, 10. Rule of proceeding when there may appear to be cause for the removal of the law officers of the Sudder Dewanny and Nizamut Adawlut; or of any of the native officers mentioned in the second, third, fourth, and fifth rules.

Reg. 8, 1809,
§ 6.
Report to be
made to courts
of circuit,
when magis-
trates see cause
to remove a cut-
wal, or police
darogah, from
one station to
another.

case may require. The zillah and city magistrates are further re-
quired to report to the court of circuit whenever they may see
cause for removing a cutwal, or police darogah, from one station
to another, within their respective jurisdictions; and shall not
make such removals without the previous sanction of the court of
circuit, unless in any particular instance, there may appear to be
urgent reason for it; in which case they shall immediately report
the same for the information and orders of the court of circuit.

Reg. 8, 1809,
§ 5, 7, 9, 10.
In what cases
the native offi-
cers referred to
in the preced-
ing rule may be
suspended.

8. In cases of gross misconduct, neglect or incapacity, such as
to require the immediate suspension of any of the native officers
referred to in the preceding rule, the court, board, magistrate, col-
lector, commercial resident, or agent, to whom such officer may be
immediately subordinate, is empowered to order the same; and,
if requisite for the public business, to nominate another person,
duly qualified, to act in his place; reporting it to the proper
authority with the other information required from him. The
several authorities referred to may also fine any native officer un-
der them respectively for neglect of duty, in a sum equal to one
month's salary; and cause the same to be levied by a stoppage of
the fixed allowance payable to such officer. And it is declared, that
all native officers, in the service of government, "will be liable
to removal from the public trusts committed to them, without proof
of any specific act of criminality, whenever there may be suffici-
ent reason to believe them incapable, or neglectful, of their pre-
scribed duties; or in any respect unworthy of public confidence."

Or fined, and
to what amount

What to be con-
sidered a suffi-
cient ground
for removal of
native officers.

Reg. 8, 1809,
§ 10.
In what cases
oaths may be
administered by
collectors, com-
mercial resi-
dents, and ag-
ents, and the
agents for the
provision of
land and opium.

9. The collectors of the land-revenue and customs, the com-
mercial residents and agents, and the agents for the provision of salt
and opium, are authorized to administer an oath, under the pro-
visions of Section 6, Regulation 4, 1793, and Section 5, Regula-
tion 4, 1803, (corresponding with Section 7, Regulation 3, 1803, and
Clause Sixth, Section 25, Regulation 8, 1803, for the ceded and
conquered provinces,) to any witnesses, whom it may be necessary
to examine respecting the conduct of any native officer employ-

ed under them respectively. Provided, that if any witness shall refuse to take the oath required from him, he shall be sent to the judge of the zillah or city court, to be confined as prescribed by the regulations in similar cases.

10. WHEN either of the law officers of the courts of Sudder Dewanny and Nizamut Adawlut, or any of the native officers specified in the second, third, fourth, or fifth rules, may be removed from his station, and also whenever a vacancy may occur from death, resignation, or otherwise, in the station of any such officer, the court, board, magistrate, collector, commercial resident, or agent, in whose immediate department such removal, or vacancy, may occur, is to nominate, for the approbation of the authority empowered to confirm the appointment, a person duly qualified to succeed to the station so vacated: and, at the same time, to report fully any information obtained of the past employments, character, and qualifications, of the proposed successor. The authorities, receiving such reports, may call for any additional information that appears necessary; and either confirm the person nominated to fill the vacant office, or direct a further nomination.

Reg. 5, 1804
§ 9, 10, 16, and
18.
Modified by
Reg. 8, 1809.
Nominations of
persons to fill
vacancies in sta-
tions of law of-
ficers of Sudder
Dewanny Ad-
awlut and Ni-
zamut Adawlut,
and of several
native officers
specified in se-
cond, third,
fourth, and fifth
rules, by whom
to be made;
and what reports
to accompany
nominations.

11. THE nazirs of the several courts of judicature, civil and criminal, are allowed to appoint their own naibs, and the mirdahs and peons, or any similar descriptions of public servants employed under their immediate direction and control; and to fill up all vacancies, which, from time to time, may occur in such appointments, subject to the approbation of the judges and magistrates, superintending the courts to which they are attached, and to the responsibility prescribed by Section 2, Regulation 13, 1793, and Section 2, Regulation 12, 1803, for the good behaviour of the naibs, mirdahs, peons, and others appointed by them. They may also remove the persons so appointed by them, provided they can state sufficient cause to the satisfaction of the judge and magistrate; but not without his previous knowledge and sanction. The police darogahs, and the tehseeldars who are vested with

Reg. 5, 1804
§ 18.
By whom naib
nazirs, mirdahs,
peons, and simi-
lar descriptions
of public ser-
vants, to be ap-
pointed, and
removed; and
under what re-
strictions.

The same rule
applicable to

naibs, jemadars, and burkundazes under cutwals, police darogahs, and other police officers.

the charge of the police, as well as the city cutwals, and other police officers, acting immediately under the zillah and city magistrates, are in like manner, and under the same responsibility, allowed to nominate, for the approbation of the magistrate, their own naibs, jemadars, and burkundazes, or any similar descriptions of public servants, composing part of their authorized police establishments, whenever vacancies may occur in such establishments; and to remove the persons acting under them upon such establishments, provided they can shew sufficient cause to the satisfaction of the magistrate; but not without obtaining his previous sanction.

Reg. 5, 1804,
§ 13.
Principle of foregoing rule applicable to similar descriptions of public servants in revenue, commercial, and other departments.

12. THE principle of the foregoing rule is declared equally applicable to the naib nazirs, the mirdahs, peons, jemadars, and burkundazes, or any similar descriptions of public servants, employed in the revenue and commercial departments, or in the departments of salt, opium, and customs; and is directed to be observed accordingly in the whole of the public offices, which are now established or may be hereafter constituted in these departments respectively. It is also to be applied to any establishments of the descriptions specified, which may, at any time, be allowed by government to the native commissioners in the judicial department, and generally to all similar establishments in that department.

Reg. 5, 1804,
§ 14.
By whom other native officers, not receiving ten rupees per mensem, to be appointed, and removed.

13. ANY other inferior native officers, forming part of the fixed establishments of the zillah and city courts, civil or criminal, or of any officers acting under the authority of the zillah and city judges and magistrates, or of any other court or office in the judicial department, or forming part of the fixed establishments of the collectors of the revenue, of any officers acting under the authority of the collectors of the revenue, or of any other office in the revenue department, or forming part of the fixed establishments of the commercial residents and agents, the agents for the provision of salt and opium, or the collectors of the customs, and of
any

any officers acting under the authority of these officers, or of any other office in the commercial department, or the departments of salt, opium, and customs, provided that the salary or other allowance of the several inferior officers, herein referred to, shall not amount to the sum of ten rupees per mensem, may be appointed, whenever vacancies occur in the stations of such officers, and on proof of misconduct, or other sufficient cause, may be removed, without reference to any superior authority, by the public officer, on whose establishment they are entertained, or to whose immediate authority they are subject. The whole of such public officers, however, are directed to record upon their proceedings the grounds upon which any native officers may be removed by them, and are required to exercise the power vested in them, in the appointment and removal of the inferior officers acting under them respectively, with due regard to the public service, and the rights of individuals, by selecting proper persons to fill all vacancies in the situations of such officers; and by containing in office the persons appointed, whether by themselves or their predecessors, whilst they discharge the duties assigned to them with diligence and integrity.

Grounds of removal to be recorded; and general rule to be observed in the exercise of the power vested in the superior officers.

14. THE several public officers, who have accounts to render to the accountant general, or to the accountants in the judicial, revenue and commercial departments, or to the civil auditor, which, by the rules and orders in force, are required to be accompanied with detailed statements of the establishments of native officers, are uniformly to insert, in such statements, the names of the native officers actually employed, and receiving an allowance of ten rupees per mensem, or upwards; as sanctioned by the Governor General in Council, the courts of Sudder Dewanny Adawlut and Nizamut Adawlut, the provincial courts of appeal and circuit, the Boards of Revenue, or Trade, or the Board of Commissioners for the upper provinces.

Reg. 5, 1804, § 21. Modified by Reg. 8, 1809. Detailed statement of establishments to include names of officers receiving ten rupees per mensem, or upwards.

15. ALL appointments and removals of native officers, receiving an allowance of ten rupees per mensem, or upwards, which

Reg. 5, 1804, § 21. Reg. 8, 1809, § 11. Appointments

T t

may

and removals of officers receiving ten rupees per mensem, and upwards, to be communicated to civil auditor.

may be sanctioned by any of the above authorities, are to be communicated by them to the civil auditor; to enable him to make the requisite alterations in the book of civil establishments; as well as to report, through the proper channel, for the orders of the Governor General in Council, any deviations from the fixed establishments, or unauthorized changes in the officers employed upon them.

Reg. 5, 1804, § 27. Public officers prohibited, not only from deriving any personal advantage from their establishments, but from making any alteration in them without the sanction of government.

16. The several officers of government in the Judicial, Revenue, and Commercial Departments, and in the Departments of salt, opium, and customs, who are restricted by their official oaths, or by the known declarations and orders of government, from deriving any personal advantage whatever from their fixed establishments of native officers, are further positively prohibited from making any alteration whatever in the distribution of the salaries of such officers, or in the number and designation of the several descriptions of native officers, which now compose, or may hereafter compose, their authorized establishments, without the express sanction of the Governor General in Council.*

Reg. 5, 1804, § 24. Prohibition against claims of inheritance

officer.
And for abolition of any office, by order of government.

17. It is provided by Section 24, Regulation 5, 1804, that nothing in this regulation shall be construed to establish a claim of inheritance to any public office whatever; or to prevent the abolition of any such office, by order of the Governor General in Council, whenever he may judge it unnecessary to continue the same for the public service.

* Previously to the enactment of Regulation 5, 1804, the public officers, in the Revenue Department, had been furnished through the Board of Revenue, with the sentiments of government, under date the 29th July 1796, and 3d October 1799, that any unauthorized alterations in the fixed establishments of native officers, were "highly objectionable and inadmissible." And on the latter date the Board of Revenue were instructed to inform the collectors that "they are not without the sanction of the Governor General in Council to make any alteration in the distribution of their establishments, under any pretence whatever; and that any actual misappropriation of the amount (which can be viewed in no other light than as an embezzlement of the public money) will be considered not only as a ground for their immediate dismissal from office, but as subjecting them to all the penalties to which they may become liable in consequence of a breach of public trust."

18. It is further provided by Section 12, Regulation 8, 1809, that nothing in this regulation shall be construed to empower the provincial courts of appeal and circuit, to authorize any addition to, or alteration in, the distribution of the fixed public establishments, without the special sanction of Government; but for the regular information of the provincial courts of appeal and circuit, all correspondence on the subject of the judicial and police establishments in the several zillahs and cities, shall pass through the provincial courts of appeal and circuit, who, in submitting to the courts of Sudder Dewanny or Nizamut Adawlut, or to the Governor General in Council, any propositions of the zillah and city judges or magistrates, relative to their establishments, shall, at the same time, communicate their sentiments, after requiring any further information on the subject, which may appear necessary,

Reg. 8, 1809,
§ 12
Provincial
courts not au-
thorized to
sanction any ad-
dition to, or al-
teration of, the
fixed establish-
ments.
But all corre-
spondence re-
specting judicial
and police estab-
lishments in
zillahs and cities
to pass
through the
provincial
courts.

Who are to
communicate
their sentiments
to the courts of
Sudder Dewanny
and Nizamut
Adawlut, or to
Governor Ge-
neral in Coun-
cil.

19. It is also declared in Section 13, Regulation 8, 1809, that nothing in that regulation shall be construed to preclude the Governor General in Council, or the courts of Sudder Dewanny Adawlut and Nizamut Adawlut, from ordering the removal of a native officer, upon just and sufficient ground appearing for such order. Nor is any part of this regulation meant to prevent the exercise of the general authority vested in the courts of Sudder Dewanny Adawlut and Nizamut Adawlut, by the regulations in force,

Reg. 8, 1809,
§ 13 Governor
General in
Council, and
courts of Sud-
der Dewanny
and Nizamut
Adawlut, may
order removal
of any native
officer on suffi-
cient ground.

20. In the concluding section of the regulation last mentioned, “the Governor General in Council reserves to himself, the power of ordering the rules, contained in this regulation, to be extended to any other native officers,* in the service of government, to whom

Reg. 8, 1809,
§ 14. Power
reserved to Go-
vernor General
in Council, of
extending
above rules to
any other na-
tive officers in
the service of
government.

* The term *native officers*, in this and other regulations, must not be understood too strictly. In its literal and general sense, natives of India, holding official situations, are intended. But as many of these situations are held by natives of Persia, and other parts of Asia, beyond the limits of India, such officers must also be considered to be included in the rules which respect native officers. Native Portuguese, and the descendants from natives of India by European fathers, are likewise within the common designation of *native*; unless

whom the same may be considered applicable, although not specifically included in the provisions of this regulation, or of Regulation 5, 1804."

Reason for including village putwaries, in third part of this Analysis.

Description of Putwary and Currumchary in first section of this part.

In what cases it must be important to have the attendance, accounts, and testimony, of village officers, such as here described.

(THE village putwaries, or accountants, being rather private agents of the landholders and farmers, than the public officers of government, the rules concerning them might have been postponed for the fourth part of this analysis, if it were not more convenient to include them in the third part, from some of their prescribed duties being immediately connected with the subjects of it. In the report of Messrs. ANDERSON, CROFTES, and BOGLE, from which an extract has been given in the introductory section, the putwary and currumchary are described as the two principal officers on the part of the zemindar, stationed in each village, to keep the accounts and collect the rents of his estate; or, if the village be small, both duties are united in the same person.) And it is added, " the currumcharies, putwarics, and halshanahs (a third denomination of officers employed to measure lands for new tenants, and receive the zemindar's portion of the produce when paid in kind) are seldom changed: the experience and knowledge, which they possess, recommend them to every superior; " and whether the rents be paid to a zemindar, to a farmer, or " to a collector immediately appointed by government, they generally continue to hold their offices." The attendance, accounts, and testimony, of permanent village officers, such as here described, must evidently be of great importance in all cases of disputed claims between a zemindar and his tenants; or between under renters and ryots; relative to the demand or payment of rent; as well as in cases, wherein it may be requisite to ascertain the actual rent produce of a zemindarry, talook, or other estate,

unless specially excepted, as in the instance of native commissioners for the trial of civil suits, by the restriction to *Mahomedans and Hindoos*. Even Europeans, and foreigners of every description, when employed in official situations, which are usually held by natives of India, must, for obvious reasons, be considered within the spirit and reason of the regulations which relate to the stations in which they are employed, unless there be a distinct provision for such cases:

with

with a view to allot the assessment upon portions of it, on a public sale, or partition between sharers. It was therefore required by one of the original rules for the decennial settlement of the lower provinces, that "for every village, a putwarry shall be established by the proprietor, for the purpose of recording the accounts of the ryots therein;" and if upon a reference to the accounts of any village, it should be found that no putwarry had been established, the proprietor was declared liable to a fine for his neglect.* The following detailed provisions were afterwards included in Section 62, Regulation 8, 1793; and re-enacted for Benares and the upper provinces by Section 9, Regulation 27, 1805, and Section 2, Regulation 29, 1803. 1. "Every proprietor of land, who may not have established a putwarry in each village, in his or her estate, to keep the accounts of the ryots, as required by the original rules for the decennial settlement, shall immediately appoint a putwarry in each village for that purpose. All proprietors of estates are to deposit in the Dewanny Adawlut of the zillah, the collector's cutcherry, and the principal cutcherry in each mohaul or pergunnah; a list of the putwarries in their respective estates, and the names of the villages, the accounts of which they may be severally appointed to keep. The proprietors are to notify every three months, to the court and the collector, all vacancies that may occur; and the names of the persons whom they may appoint to fill them. The Board of Revenue, or Board of Commissioners in the upper provinces, are empowered to authorize any proprietor to reduce the number of putwarries in such proportion as they may think proper, in cases in which it may appear to them unnecessary to entertain a separate putwarry for each village." 2. "The putwarries in every estate are to produce all accounts relating to the lands, produce, collections and charges of the village or villages, the accounts of which may be kept by them respectively, and to furnish every information and explanation that may be required regarding them, whenever they

Appointment of village putwarries consequently required by original rules for decennial settlement of lower provinces.

Detailed provisions subsequently made by Sec. 62, Reg. 8, 1793. Re-enacted for Benares, in S.C. 9. Reg. 27, 1805, and for upper provinces in Sec. 2. Reg. 29, 1803.

A putwarry to be appointed in each village.

And lists to be deposited in cutcherries of Dewanny Adawlut, collector, and pergunnah. Successions to vacancies to be notified every three months.

Board of Revenue, or Board of Commissioners, may authorize a reduction of the number of putwarries.

What accounts to be produced by putwarries, on requisition of the courts of judicature.

* See Art. 66, of Regulations dated 23d November 1791. COLLEBROOKE'S Digest, vol. 3, page 321;

Accounts to be produced by them on requisition of the collectors.

Collectors restricted from requiring attendance of putwarries, and production of their accounts, except in cases authorized by the regulations.

And court of Dewanny Adawlut empowered to enforce this restriction.

Written notice to be served on putwarries when collectors may require their attendance.

Attendance of putwarries, with their accounts, to be enforced, if necessary, by the zillah judge.

may be required by any court of justice, to adjust any suit that may be depending before the court, between the proprietor or farmer of the estate, and the ryots, or any persons paying rent or revenue to them, or any other suit." 3. "The putwarries in each estate, shall also produce the accounts specified in the preceding clause, and furnish every explanation and information that may be required respecting them, for the allotment of the public revenue agreeably to the principles laid down in the regulations, in the event of the whole or any portion of the estate being directed to be disposed of at public sale, or being transferred by any private act of the proprietor or proprietors, or of the estate being ordered to be divided pursuant to a decree of a court of judicature, or, where it may be a joint estate, in consequence of the request of one or more of the proprietors. But no collector is to require a putwarry to attend him, and produce his accounts, except for the purposes abovementioned, or in other cases in which he may be expressly empowered to require them by a regulation, printed and published in the manner directed in Regulation 41, 1793, or I, 1803 for the upper provinces. If any collector shall require the putwarry of any village or villages to attend him and produce the village accounts, for purposes or in cases in which he may not be authorized to inspect them, the court of Dewanny Adawlut, upon the circumstances being represented to it by the proprietor of the estate, is empowered to make an order to prohibit the collector requiring the accounts; and in the event of his repeating the requisition, to adjudge him to pay a fine to the proprietor of the estate of such sum as to the court may appear proper." 4. "When a collector shall require the attendance of a putwarry for the examination of his accounts, either before him, or any officer whom he may depute for the purpose, he is to serve such putwarry with a written notice, under his official signature, and the seal of the zillah, to attend with the accounts required, which are to be particularized in the notice. If he shall omit to attend with the accounts by the limited time, and shall not show good cause to the collector for the omission, the collector is authorized to represent the circumstances through

through the vakeel of government to the court of Dewanny Adawlut of the zillah, the judge of which, provided there shall appear to him sufficient cause for so doing, may order such putwarry to be committed to close custody until he produces the accounts.

And putwarries liable to confinement till they produce the accounts.

The courts are to observe the same process with putwarries who may omit to attend with their accounts when required, for the adjustment of any matter or dispute depending before the courts."

5. "Putwarries shall be required to swear to the truth of the accounts they may produce, when deemed necessary; and in the event of the collector having occasion to proceed in person, or to depute an officer to examine any village accounts on the spot, the judge, upon application being made to him for that purpose by the collector, through the vakeel of government, may grant to him, or to such officer, a commission to swear the several putwarries, whose accounts are to be inspected, inserting in the commission the name of each putwarry to be sworn. If the collector shall have occasion to examine the accounts of a putwarry at the station at which the court may be established, he is to cause him to be sworn before the court, if he shall judge it necessary to require him to make oath to the truth of his accounts."

Putwarries may be sworn to the truth of their accounts, when deemed necessary. By whom their oath to be taken in such cases.

6. If a putwarry shall have sworn to the truth of any account that he may have been required to produce before a court of justice, for the purpose of deciding any matter before the court, and the accounts shall afterwards be found to to have been fabricated, or altered, or not to be the true accounts, the judge of the court is empowered to commit him to be tried for perjury before the court of circuit." 7. "If a putwarry shall have been sworn before a judge, or before a collector, or the officer of a collector, to any accounts that he may have been required to produce before the collector, or his officer, in a case in which the collector may have been empowered to require him to produce such accounts, and the accounts shall afterwards appear to have been fabricated or altered, or not to be the true accounts, the collector is empowered to employ the vakeel of government to prosecute such putwarry for perjury. In the cases specified in this

In what case the putwarry may be committed for perjury; to be tried before the court of circuit.

In what case the collector may employ the vakeel of government to prosecute a putwarry for perjury.

In what case the proprietor, or

and

farmer, of the
estate liable to
fine.

Fines to be levied for neglect to appoint village putwarries, as required.

Reg. 8, 1793, § 63, Clause 10. Upper provinces. Reg. 27, 1803, § 3, Clause 1. Above rules applicable to dependent talooks. Benares Reg. 25, 1795, § 9. Upper provinces. Reg. 20, 1803, § 2. And to farmers of land in Benares and upper provinces. Reg. 4, 1794, § 3. Special provision for part of zillah Ramghur, in province of Bahar.

and the preceding clause, if it shall be proved to the satisfaction of the court, that the accounts were fabricated, altered or changed, by the orders, or with the knowledge or connivance, of the proprietor or farmer of the estate, the court shall impose such fine upon the proprietor or farmer so offending as may appear to it proper upon a consideration of the case, and the situation and circumstances of the offender.” 8. “Upon the accounts of any village being ordered to be produced, if it shall be found that no putwarry has been appointed to keep the accounts of the ryots, in conformity to the rules prescribed in clause second; the court, provided it be a case in which the requisition of the accounts may be authorized, shall fine the proprietor for the first offence, in such sum as it may judge proper upon a consideration of his or her situation and circumstances, and the nature of the case; and for the second offence, twice the amount of the fine for the first; and for the third and every subsequent offence, double the amount of the fine for the preceding one. If the accounts shall have been required by the collector, he is to order the vakeel of government to sue the proprietor on the part of government under this section for a breach of the rule in clause second.” The above rules, when originally established for the proprietors of land in the lower provinces, were declared “equally applicable to dependent talooks, as to estates paying revenue immediately to government,” and by the regulations above noticed, for Benares and the upper provinces, they are extended to the farmers of land, with whom the settlement was concluded in those provinces. The landholders of part of zillah Ramghur, situate in the province of Bahar, having stated the heavy expense to which they would be subjected by the appointment of putwarries, as required, owing to the smallness of the rent received from each village in a mountainous and uncultivated country, they were excepted, by Section 3, Regulation 4, 1794, from the general rules, contained in Section 62, Regulation 8, 1793; with a provision that “the gomashdahs, or officers, whom the proprietors, or farmers of land, or the under farmers or ryots, in those districts, may entertain for

keeping

keeping such written or other village accounts, as are kept, shall be bound to produce such accounts, in the cases in which the courts of judicature, or the collectors, are empowered by the above-mentioned or any other regulation to require them." It has been likewise explained generally, "that it was not meant to require the proprietors of small estates, who may superintend their own lands, and be unable to afford the expense of a putwarry, to appoint officers of this description, for the purposes mentioned in Section 62, of Regulation 8, 1793; but in such cases, the proprietors themselves are, when required, to furnish the accounts and information specified in the above section, in like manner, as the putwarries are required to furnish the same; and under the same provisions." The rules concerning putwarries, in the second, third, fourth, fifth, sixth and seventh Clauses above specified, have, at the same time, been extended, with a view to render them more effectual, "to all other descriptions of native agents employed by the landholders, (or farmers in the upper provinces,) in the management of their estates, (or farms,) or in keeping any accounts of their lands, rents, receipts, or disbursements." And it is declared, that "if any such agent shall be convicted in the zillah court, of having collusively fabricated or altered the accounts delivered by him, or of having wilfully delivered any other than the true accounts, the offender, besides the punishment for perjury to which he will be liable, shall be subject to dismissal from the service of the party employing him, by order of the court, and such party shall be positively prohibited from again employing the offender, under whatever penalty the court may think proper to fix, upon consideration of the circumstances of the case."

Reg. 7, 1799,
§ 23, Clause 4.
Upper provin-
ces, Reg. 29,
1803, § 4. And
general modifi-
cation of rule
for appoint-
ment of put-
warries, in small
estates.

Reg. 1, 1801,
§ 8 Upper pro-
vinces, Reg. 29,
1803, § 3,
Clause 2. But
part of rules
concerning put-
warries extend-
ed to other na-
tive agents em-
ployed by land-
holders and far-
mers.

THIRD PART.

SECTION III

LAND REVENUE

Land assessment
the principal
source of reve-
nue, in the com-
pany's posses-
sions.

THE assessment upon the lands being the principal source of revenue in the territorial possessions of the East India Company, it naturally claims precedence in every treatise relative to the revenues of those territories. It will accordingly be the subject of the present section ; which, for the sake of perspicuity, will be divided into the following subordinate heads:

Subordinate
heads of this
section.

1. ASSESSMENT OF BENGAL, BEHAR, AND ORISSA, (EXCLUSIVE OF CUTTAC.)
2. ASSESSMENT OF BENARES.
3. ASSESSMENT OF UPPER PROVINCES.
4. ASSESSMENT OF CUTTAC.
5. COLLECTION OF THE LAND REVENUE.
6. EMBANKMENTS, RESERVOIRS, AND WATER-COURSES.
7. DIVISION AND UNION OF ESTATES: WITH PROVISIONS FOR JOINT ESTATES.
8. LANDS EXEMPT FROM ASSESSMENT; AND PENSIONS.
9. REGISTERS OF LAND, MALGOOZARY, AND LAKHERAJ.

**I. ASSESSMENT OF BENGAL, BEHAR, AND ORISSA;
(EXCLUSIVE OF CUTTACK).**

THE original rules for the decennial settlement of the land revenue of these provinces were passed on the following dates; for Behar on the 18th September 1789; for Orissa on the 25th November 1789; and for Bengal on the 10th February 1790. Having undergone considerable alterations, and also received many additions, during the progress of the arrangement, an amended code of rules, for the settlement of the three provinces, was enacted and printed, with translations in the Bengal and Persian languages, on the 23d November 1791;* and this code, with further modifications, adapted to the judicial system established in 1793, was re-enacted in Regulation VIII, of that year.

Dates of rules progressively issued for settlement of the land revenue of Bengal, Behar, and Orissa; as stated in preamble to Reg. 8, 1793.

THE most discriminating feature in this settlement, which by a proclamation, dated the 22d March 1793, was declared fixed for ever, as far as it had been made with the zemindars, independent talookdars, and other proprietors of land, is its perpetuity. From the period of the Company's accession to the financial administration of Bengal, Behar, and Orissa, by the *Dewany* grant of 1765, one settlement only, that of 1772, was concluded for a term of five years; and this was made chiefly with farmers, to the exclusion of the hereditary landholders. With this exception, the settlements for the revenue, *māl* and *sāyer*, were, in general, adjusted from year to year; in some instances with the landholders; in others with farmers; or when the former declined to engage for the revenue demanded from them, and no adequate proposals were tendered by the latter, the rents payable by the under-tenants were collected immediately from them, under what has been usually denominated a *Khas* management, by the officers of government. This mode of collection was also had recourse to, when it was judged requisite to ascertain the actual resources of the lands; and, as in the case of the five years settle-

This settlement, as far as concluded with the landholders, declared perpetual by proclamation of 22d March, 1793.

Distinguished by this circumstance, from all former settlements; which were, in general, from year to year.

* This code is printed, at length, in the third Volume of Sir J. E. COLEBROOKE's *Digest of the Regulations*, page 308.

nient, they were some times let in farm to the highest bidder for the same purpose; an allowance, usually one tenth of the actual receipts from the lands when held *Khas*, or a tenth of the amount engaged for by the farmer when let in farm, being commonly, though not uniformly, given to the dispossessed zemindar, or other landholder, in such cases.

Evils attending the system of annual settlements, frequently pointed out by the local government; and acknowledged by the Court of Directors.

Plans submitted for a life settlement, or in perpetuity, in 1775 and 1776.

Answer of the Court of Directors.

The evils attending a system so injurious to the landholders and their tenants, so calculated to produce rigour and exaction towards the cultivators of the soil, so discouraging to all improvements of agriculture, and consequently so inimical to the general prosperity of the country, were too obvious to escape notice. In fact they were frequently pointed out by the local government to the Court of Directors; and were fully acknowledged by that court; though circumstances, and the principles on which the Company's administration was then conducted, did not admit of an immediate remedy. In the years 1775 and 1776, the policy of a settlement, to be made with the landholders for their respective lives, or to be fixed at a moderate standard for ever, was particularly and ably discussed by the members of the government; and the plan of Mr. HASTINGS and Mr. BARWELL, for a life settlement, with that of Mr. FRANCIS, (concurrent in by Sir J. CLAVERING and Colonel MONSON,) which have been since made public, were submitted, with full illustrations, to the Court of Directors; for their deliberate consideration and decision. The court however, in their answer of 24th December 1776, whilst they testified their approbation of the care and attention of the Members of Council in transmitting such clear and accurate statement and plans as had given them great information, added, that "having considered the different circumstances of letting the lands on leases for lives, or in perpetuity, we do not, for many weighty reasons, think it at present advisable to adopt either of these modes."*

At

* See letter referred to in Appendix No. 11. to sixth report of the select committee of the House of Commons, appointed in February 1781. The appendix also contains the plan

At length, soon after the institution of the Board of Control, under the Act 24 GEO. III. Cap. XXV. "for the better regulation and management of the affairs of the East India Company, and of the British possessions in India;" and on the appointment of MARQUIS CORNWALLIS, with extended powers, to be Governor General of India; the Court of Directors, who were required by the 39th Section of the above mentioned statute to give orders "for settling and establishing, upon principles of moderation and justice according to the laws and constitution of India, the permanent rules by which the tributes, rents, and services of the rajahs, zemindars, polygars, talookdars, and other native landholders, should be in future rendered and paid to the United Company," issued the necessary instructions for this purpose, in their revenue general letter, dated the 12th April 1786.

Provision for a permanent settlement with the landholders, made by the statute 24 GEO. III. Cap. XXV, § 30.

WITH a view to carry into effect the intention of the legislature, who further directed an inquiry into, and eventual redress of, the grievances alleged to have been sustained by many of the native landholders within the British territories in India, stated to have been "unjustly deprived of, or compelled to abandon and relinquish, their respective lands, jurisdictions, rights, and privileges," the Court of Directors issued orders for a full investigation of the truth and extent of such grievances; and also for ascertaining, as correctly as the nature of the subject would admit, "what were the real jurisdictions, rights, and privileges of zemindars, talookdars and jagheerdars, under the constitution and customs of the Mahomedan or Hindoo government; and what were the tributes, rents, and services, which they were bound to render or perform to the sovereign power; and in like manner those from the talookdars to their immediate liege lord, the zemindar; and by what rule, or standard, they were or ought seve-

Orders issued by the Court of Directors for carrying the intention of the legislature into effect.

plan of Messrs. HASTINGS and BARWELL, No. 12; and that of Mr. FRANCIS, No. 14. These plans, and other papers connected with them, have also been separately published. By Mr. FRANCIS, under the title of "original minutes of the Governor General and Council of Fort William, on the settlement and collection of the Revenues of Bengal."

rally to be regulated." The court at the same time were of opinion that the spirit of the act would be best observed by fixing a permanent revenue on a review of the assessment and actual collections of former years; and by forming a settlement, in every practicable instance, with the landholders; establishing at the same time such rules as might be requisite for maintaining the rights of all descriptions of persons under the established usages of the country; and the clause in the Act of Parliament above referred to, which the Governor General in Council was desired to consider with minute and scrupulous attention; taking especial care that all the measures adopted in the administration of the revenues be consonant to the sense and spirit thereof." Presuming therefore that the assets of the lands must be sufficiently known, without any new scrutines, under the various attempts made to ascertain them since the year 1765, and wishing to fix a moderate assessment upon the estates of the several landholders, such as the latter might pay without having a plea for harassing their tenants, the Court of Directors gave instructions for the formation of a settlement to be regulated by these principles, on a revision of the jumma and collections of past years; and to be concluded for a period of ten years. In fixing this specific period, the court expressed their apprehension that "the frequency of change had created such distrust in the minds of the people as to render the idea of some definite term more pleasing to them than a dubious perpetuity;" but they, at the same time, directed that the whole arrangement, when completed, should be reported to them, with every necessary document, and illustration, to enable them "to form a conclusive and satisfactory opinion, so as to preclude the necessity of further reference, or future change."

Inquiries made
by the Governor
General in
Council on re-
ceipt of the
foregoing in-
structions.

On receipt of these instructions the most particular local inquiries were set on foot, to obtain all possible information of the former and present state of the several districts; the condition of the landholders and tenants of every description; their rights under the Moghul Government before its decline; the laws and usages

usages which had since prevailed in settling the rents payable by the ryots, dependent talookdars, and other under tenants, to the zemindars, independent talookdars, and other superior landholders; what new impositions and exactions had been introduced under the Company's administration; what rules were required for securing the inferior occupants and immediate cultivators of the soil against oppression and extortion; and generally, what measures should be adopted to remedy existing defects and abuses in the adjustment and collection of the land rents; as well as in the gunge, haut, bazar, and other duties levied under the general denomination of *sayer*. Detailed accounts of the assessment, and actual collections; in past years were also procured; with every other document which appeared material for determining a standard revenue for future years; such as the orders of the Court of Directors prescribed; and the landholders might be able to pay without distressing their tenants; and the voluminous reports of the collectors, board of revenue, and other public officers, upon the inquiries made by them, were abridged and brought forward in a collective view; by a member of the government eminently distinguished for his talents, knowledge and experience; whose minute on the settlement of Bengal, recorded the 18th June 1789, was subsequently noticed by the Court of Directors as a "comprehensive and masterly dissertation, which not only exhibited and methodized the most material parts of the reports from the collectors of the Bengal province, but afforded new and important communications from himself; supplying, in various respects, what they wanted; delineating with great clearness the past financial system and history of Bengal; examining with candor those points in it which have been subjects of controversy; investigating with patient judgment the best system for that country; the difficulties which may attend it; the means of obviating them; and in fine, proposing from the whole a set of regulations for carrying into execution the orders of the Court respecting the decennial settlement, so as to secure justice both to the government and to the subject; and to prevent,

Mr. Snow's
minute on the
settlement of
Bengal, record-
ed 18th June,
1789.

prevent, in future, those abuses, which either exist, or may be apprehended, in the detail of the collections.”*

Rules passed by Governor General in Council, on consideration of Mr. Shonk's minutes upon the settlement of Behar, and Bengal, and the papers which accompanied them.

ON consideration of this document, with the papers which accompanied it, and a further minute from the same member of government, on the settlement of Behar, recorded 18th September 1789, the Governor General in Council passed the rules, afterwards incorporated with amendments, as already noticed, in Regulation 8, 1793; the provisions of which, as far as they relate to the third part of this analysis, I shall now proceed to state in detail.

Reg. 8, 1793; § 2, and § 3. Settlement of Behar, Orissa, and Bengal, to be concluded for ten years, from Fussily, Villaity, and Bengal

THE primary rule directs that “a new settlement of the land revenue shall be concluded for a period of ten years, to commence with the Fussily, Villaity, and Bengal year 1197, for Behar, Orissa, and Bengal respectively.†” And by the succeeding rule it

is,‡

* The Court of Directors added, in their revenue general letter of 19th September 1792; “The great body of information which this performance contains respecting the practise of the Moghul Government, and our own, the past and present state of the country, the usages and corruptions in the administration of the revenue, the rights and characters of the superior and inferior occupants of the land,—such collection, and the luminous order in which it is arranged, the vast application it evinces, and the good sense which pervades it, are all entitled to our respect and praise; and will remain a monument of Mr. Shonk's services to the Company.” Since this note was written I have been happy to learn that the minute referred to has been printed in the appendix to the fifth report of the select committee of the House of Commons, dated 28th July 1812.

† The *Fussily* or harvest, and *Viláyuty* or country, year 1197 began in September 1789; the Bengal year 1197 in April 1790. These eras appear to have been introduced in the reign of AKBAR, who ascended the throne of Dehly on the 2d *Rabee-oo-sanee*, in the year of the *Hijra* 963, or 14th February A. D. 1556. A solar year, for financial and other civil transactions, was then engrafted upon the current lunar year of the *Hijra*, or subsequently adjusted to the first year of AKBAR's reign. But the *Fussily* year 963 having expired in September 1556, the commencement of it must be reckoned back to September 1555; whereas the Bengal year 963 did not commence till April 1556, and extended to April 1557. The difference between the *Fussily* and Christian eras is 592 years, from the commencement of the *Fussily* year on the 1st Assin, in September, to the end of December; and 593 years, from January to the *Fussily* year's termination on the 30th Bhadoon, corresponding with a variable date in September. Thus 1st Assin 1197 + 592 = 5th September 1789, when the *Fussily* year 1197 began; and 30th Bhadoon 1197 + 593 = 23d September 1790, when it ended. The *Viláyuty* or *Umlý* year, current in Orissa, differs from the *Fussily* in a few days only, by adopting the Bengal method of reckoning the months. The Christian exceeds the Bengal era 593 years from the 11th April to the end of December; and 594 from January to the 10th April. Thus 1st *Bysakh*, the commencement of the

is," at the same time, notified to the proprietors of land, with whom the settlement may be concluded, that the assessment fixed by the decennial settlement, will be continued after the expiration of the ten years, and remain unalterable for ever; provided such continuance shall meet with the approbation of the Honorable Court of Directors, but not otherwise."

and to continue unalterable forever, if such continuance meet the approbation of the Court of Directors.

It must not be concealed that a difference of opinion arose upon the expediency of this notification; as well as upon the more important question, whether the general principles of policy, on which a fixed assessment in perpetuity was proposed, were applicable to the actual state of Bengal, and its dependencies. On the one side it was objected, that a contingent assurance of the settlement's being continued beyond ten years, if approved by the Court of Directors, could not be expected to give greater confidence, in the first instance, than would be afforded by the specific term of ten years, which, under past experience of annual changes, would be esteemed nearly equal to perpetuity; that towards the close of the decennial period or after some years of it had elapsed, when the native landholders had become sensible of the advantages of a permanent system, and had acquired confidence in the stability of the measures of government, they might become anxious for a confirmation of the settlement; which might then be declared with the concurrence of the Court of Directors, if it should receive their approbation; whereas, if the declaration were made immediately, and the Court of Directors should not afterwards judge it proper to confirm the settlement, the confidence of the people would be shaken; and those who had been influenced by the expectation held out to them might suspect it was intended to deceive them. Further, before the perpetual continuance of an arrangement of so much importance could be recommended, it was desirable that experience should

Difference of opinion upon expediency of this notification, and upon the policy of a fixed perpetual assessment of Bengal, and its dependencies.

Objections to contingent assurance of the settlement, being continued beyond ten years, if approved by the Court of Directors.

the Bengal year 1197+593=11th April 1790; and its termination, 31st Chyt, 1197+594=10th April 1791. This note furnishes an easy rule for ascertaining the corresponding years of the Fusly, Vilayuty, Bougal, and Christian, eras respectively.

Further argu-
ment against the
policy of an im-
mediate unalter-
able assessment.

prove the success of the measures adopted in the formation of it; and the actual execution of the settlement in conformity with the rules prescribed for it. Against the policy of immediately and unalterably fixing the assessment of the Company's possessions in Bengal, Behar, and Orissa, beyond the limited term of ten years; whilst it was admitted that, on general principles, the tax which the subject is to pay to the state should not be arbitrary, but ascertained; that all besides, which his industry can produce, should be secured to him; and that to encourage agriculture, and promote the prosperity of any country, landed property must be rendered definite, and the charges upon it certain; it was urged (with more detailed reasoning than can here be stated) that government still possessed but an imperfect knowledge of the resources of the different districts; or of the respective rights of zemindars, talookdars, and ryots; that, under this imperfect knowledge, it was impossible to discriminate between the imposts upon the two latter, which should, and should not, be sanctioned under a permanent assessment; and that it must therefore be extremely difficult to frame and execute such rules, as would secure to the great body of peasantry and under-tenants the same equity and certainty, as to the amount of their rents, and the same undisturbed enjoyment of the fruits of their industry, which it was meant to give to the superior landholders, the zemindars. It was likewise contended, that as some estates would probably be over-rated, and others suffer from drought, or inundation, the proprietors, unable to make good their assessments, would be deprived of their lands by public sales, without any thing culpable on their part; that the Company, from such causes as these, would be exposed to a continual diminution of the stipulated revenue, without a possibility of any augmentation to balance their losses; and that after all, unless regulations could be established to maintain justice and equity between the landholders and their tenants, the great objects for which the sacrifices attending a permanent settlement of the land revenue would have been made, viz: the improvement of the country, and welfare of its inhabitants,

inhabitants, would not be attained: the evils of the old system, intended to be reformed, would still subsist. From all these considerations, and others of inferior weight, candidly brought into view by an experienced member of the government, it was inferred, that the advance to a perpetual settlement should be gradual; that the first decennial period should be regarded as a period of experiment and improvement; during which more knowledge might be obtained both of the state and resources of the country; and of the relative rights of the different orders of the people; inequalities in the assessment might be discovered; the mode of determining and collecting the rents of the ryots might be simplified; due regulations of every kind be established and enforced; and all descriptions of persons, by degrees, familiarized to a system of certainty and security; and the first period having thus passed in experimental arrangement, advantage might be taken of the experience acquired in it, for the settlement of a second period; or in perpetuity.*

Inference from consideration states, that the advance to a permanent settlement should be gradual; and that a settlement should be formed, in the first instance, for a year, as a period of experiment and improvement; of which advantage might be taken for the settlement of a second period; or in perpetuity.

BUT these arguments, against the immediate formation of a permanent settlement, subject to the approbation of the Court of Directors, notwithstanding the weight attached to them from the character of the person who advanced them, did not appear to Lord CORNWALLIS sufficient to warrant the postponement of a measure, which he deemed "best calculated to promote the substantial interests of the Company, and of the British nation, as well as the happiness and prosperity of the natives of India." In support of the notification to proprietors of land, engaging for the decennial settlement of their respective estates, that the assessment thereby fixed would remain unalterable for ever, if the Court of Directors should approve such continuance of it, his Lordship observed, that although the Court of Directors had wisely and cautiously retained in their own hands the power of confirming or annulling the set-

Reasons for postponing a permanent settlement, subject to the approbation of the Court of Directors, not judged sufficient by Lord Cornwallis.

Argument for immediate notification to the landholders, that the decennial assessment of their estates would, if approved by the Court of Directors, remain fixed for ever.

* The argument referred to is stated at length in Mr. SHORE's minutes, recorded on the 18th September and 21st December, 1789; which have been printed in No. 5, of the Appendix to the fifth report of the committee of the House of Commons, dated 28th July 1812.

tlement authorized by them, at the expiration of a limited term ; he could not believe that they would hold out the flattering hope of a permanent settlement unless they had been determined to confirm it, in perpetuity, if they should find that their officers had not failed in their duty, or betrayed the important trust reposed in them ; that having a clear conviction, in his own mind, of the utility of the system, he should think it his duty to recommend most earnestly to the Court of Directors to lose no time in declaring the permanency of the settlement ; provided they should discover no material objection or error ; and not postpone for ten years the commencement of the prosperity and solid improvement of the country ; that the landholders, with whom the settlement might be formed, would have an immediate interest in encouraging their tenants, and improving their estates, if they could hope to enjoy the benefit of their improvements without being subjected to enhanced demands of revenue on account of them ; whereas if not secured in the possession of their lands beyond ten years, and then liable to the requisition of an increased assessment, dictated perhaps by ignorance or rapacity, it would be natural for them to extract every possible advantage from their estates during the term of their engagements ; and at the end of it to exhibit them in a state of decline and ruin : that a ten years lease would not afford sufficient inducement to bring into cultivation the jungul or forest lands, computed to be one third of the Company's territory in Hindoostan ; that a more durable tenure was necessary to invite those exertions which alone could effect any substantial improvement : and that provident landholders, from whom only this improvement was to be expected, would certainly distinguish between a lease to expire at the end of a few years, and a settlement to continue for ever. In answer to the objection, that if the Court of Directors should not, under the option left to them, confirm the settlement in perpetuity, the native landholders who relied upon its confirmation, and under that reliance adopted measures to improve their estates, would be disappointed ; and suspect intentional deceit ; his Lordship remarked, that he could not believe

believe any people to be so unreasonable, as to accuse government of want of faith, for not doing what was expressly left to the determination of the Court of Directors; that the probable effect of the notification would be to induce the landholders to offer a fair revenue for their estates, with a view to obtain the immediate management of them; and in the hope of such revenue being permanently fixed, to encourage their tenants and promote the cultivation of their lands, which would be beneficial to them, even if they should be disappointed in their expectation of a permanent assessment; and that an argument, founded on the supposition of measures being adopted by the landholders for the improvement of their estates, when they might expect a fixed assessment, to which they would not have recourse so long as the revenue payable by them was liable to variation, strongly pointed out the expediency of a permanent settlement; and of declaring the intention of forming it as soon as possible. To the further objection, that experience of the success of the measures adopted was requisite before the confirmation of them, in perpetuity, could be recommended; it was replied, that no experience could be wanting to prove the success of a plan which contained nothing new, excepting the advantages given to the zemindars, talookdars, and ryots, on the one side; and on the other, the greater security, against losses from balances of revenue, gained to the Company; that a permanent assessment would not preclude any regulations which might be found necessary for the correction and future prevention of abuses; that if a settlement were made, equal in amount of revenue to the expectation of the Court of Directors, and at the same time calculated to promote the prosperity of the country and happiness of the people, there could be no reason to apprehend it would not be approved and confirmed; and whatever might be the real deficiency of present knowledge, as to the actual state and resources of the several districts, after all the labour, time, and ability, which had been expended in ascertaining them; from the constitution of the British Government in India, and the continual change of the public of-

ficers, more adequate knowledge could not reasonably be expected at the end of ten years: on the contrary, the probable result of a settlement for that period only would be an impoverished territory at the end of it, with more difficulties in forming an equal and just assessment than were now to be encountered. There appeared to be only one alternative therefore, either to sit down passive and despondent under supposed difficulties and disorders that could not be remedied; or to act upon the information acquired by the labours of the collectors during three successive years, aided by their superior fitness for carrying into execution that system, with a view to which they had been so long and diligently employed.

Further general considerations stated by Lord CORNWALLIS in favor of a perpetual land tax.

THE following general considerations were, at the same time, stated by Lord CORNWALLIS in favor of a perpetual land-tax. Agriculture would increase under a fixed assessment, which must therefore be favorable to the contributors. Silver might be expected to continue to fall in value, in proportion to the quantity drawn from the mines, and thrown into circulation; in which case, the assessment would become gradually lighter; and more easily collected. The necessity of granting remissions to the landholders for temporary losses would diminish, as the produce of their estates should increase, and exceed the revenue payable by them to government. In a country subject to drought, and inundation, a fixed assessment affords a strong inducement to the landholder, to exert himself to repair, as speedily as possible, the damages which his lands may have sustained from these calamities; and his ability to make such exertions will be proportionably increased by the additional value of his landed property, from the limitation of the public demand upon it. The practise of keeping up the revenue by charging occasionally the improved estate of one landholder, with the amount of a reduction made in the assessment of another, whose lands may have been impoverished by mismanagement, is unjust and impolitic; and till this practise be discontinued, landed property must continue in a state of depreciation.

preciation. The present ignorance and incapacity of the zemindars are ascribable to the system which has prevailed; and removable only by the enaction of laws calculated to secure to them the fruits of industry and economy; and at the same time leaving them to experience the consequences of idleness and extravagance. The intricate state of the detail of business between the zemindars and their tenants proves that the attempts made to simplify this intricacy have been defective in principle; and that it is necessary to have recourse to other measures. “In order to simplify the demand of the landholder upon the ryot, or cultivator of the soil. (His Lordship added)* “We must begin with fixing the demand of government upon the former. This done, I have little doubt but that the landholders will, without difficulty, be made to grant pottahs to the ryots upon the principles proposed by Mr. SHORE in his propositions for the Bengal settlement. The value of the produce of the land is well known to the proprietor, or his officers, and to the ryot who cultivates it; and is a standard which can always be resorted to by both parties, for fixing equitable rates. Mr. SHORE’s proposition, that the rents of the ryots by whatever rule or custom they may be demanded, shall be specific as to their amount; that the landholders shall be obliged, within a certain time, to grant pottahs or writings to their ryots, in which this amount shall be inserted; and that no ryot shall be liable to pay more than the sum actually specified in his pottah; if duly enforced by the collectors, will soon obviate the objection to a fixed assessment, founded upon the undefined state of the demands of the landholders upon the ryots. When a spirit of improvement is diffused throughout the country, the ryots will find a further security in the competition of the landholders to add to the number of their tenants. Some interference is undoubtedly necessary on the part of government for effecting an adjustment of the demands of the zemindars on the ryots. Unless we sup-

* In his minute, dated the 3d February 1790, and recorded on the 10th of that month, it is printed in No. 5 of the Appendix to the fifth report, before referred to.

“ pose the ryots to be the absolute slaves of the zemindars,
 “ every begah of land possessed by them must have been
 “ cultivated under an express or implied agreement that a
 “ certain sum should be paid for each begah of produce, and
 “ no more. Every *abwab*, or tax, imposed by the zemindar,
 “ over and above that sum, is not only a breach of that agree-
 “ ment, but a direct violation of the established laws of the
 “ country. I do not hesitate therefore to give it as my opinion
 “ that the zemindars, neither now or ever, could possess a right
 “ to impose taxes, or *abwabs*, upon the ryots; and if, from the
 “ confusions which prevailed towards the close of the Mogul go-
 “ vernment, or neglect or want of information since we have had
 “ possession of the country, new *abwabs* have been imposed by
 “ the zemindars, or farmers, our government has an undoubted
 “ right to abolish such as are oppressive, and have never been
 “ confirmed by a competent authority; and to establish such regu-
 “ lations as may prevent the practise of like abuses in future.
 “ Neither is the privilege which the ryots in many parts of Ben-
 “ gal enjoy, of holding possession of the spots of land which they
 “ cultivate so long as they pay the revenue assessed upon them, by
 “ any means incompatible with the proprietary rights of the ze-
 “ mindars. Whoever cultivates the land, the zemindar can receive
 “ no more than the established rent, which, in most places, is
 “ fully equal to what the cultivator can afford to pay. To permit
 “ him to dispossess one cultivator for the sole purpose of giving
 “ the land to another, would be vesting him with a power to com-
 “ mit a wanton act of oppression, from which he could derive no
 “ benefit. The practise that prevailed under the Mogul govern-
 “ ment, of uniting many districts under one zemindary, and
 “ thereby subjecting a large body of people to the control of one
 “ principal zemindar, rendered some restriction of this nature
 “ absolutely necessary. The zemindar, however, may sell the
 “ land; and the cultivators must pay the rent to the purchaser.
 “ Neither is prohibiting the landholder to impose new *abwabs*, or
 “ taxes, on the lands in cultivation, tantamount to saying to him,
 “ that

“ that he shall not raise the rents of his estate. The rents of an
 “ estate are not to be raised by the imposition of new *abwabs*, or
 “ taxes, on every begah of land in cultivation. On the contrary,
 “ they will, in the end, be lowered by such impositions; for
 “ when the rate of assessment becomes so oppressive as not to
 “ leave the ryot a sufficient share of the produce for the mainte-
 “ nance of his family, and the expenses of cultivation, he must,
 “ at length, desert the land. No zemindar claims a right to im-
 “ pose new taxes on the land in cultivation, although it is obvi-
 “ ous that they have clandestinely levied them, when pressed to
 “ answer demands upon themselves; and that these taxes have,
 “ from various causes, been perpetuated to the ultimate detri-
 “ ment of the proprietor, who imposed them. The rents of an
 “ estate can only be raised by inducing the ryots to cultivate the
 “ more valuable articles of produce, and to clear the extensive
 “ tracts of waste land, which are to be found in almost every ze-
 “ mindary in Bengal. It requires no local knowledge of the reve-
 “ nues of this country to decide whether fixing the assessment, or
 “ leaving it liable to future increase, at the discretion of govern-
 “ ment or its officers, will afford the greatest encouragement to the
 “ landholder to have recourse to these means for the improvement
 “ of his estate.”

WITHOUT further detailing the able minute from which the above
 extract is taken, it appears sufficient to observe, that the Court of
 Directors, having this document before them, with a full report
 of all the measures adopted relative to the decennial settlement,
 and a statement of its amount, to the full extent of their expecta-
 tions, in their revenue general letter of the 19th September 1792,
 expressed their final sentiments upon the subject to the following
 effect. The court, adverting to the difference of opinion which
 had taken place on the propriety of declaring the decennial set-
 tlement, if approved, perpetual; and on the expediency of fixing,
 at any time, an unalterable assessment for Bengal, and its depend-
 ent provinces; which questions they considered to form, in ef-

Final sentiments
 of the Court of
 Directors upon
 the question of
 a permanent set-
 tlement.

fect, but one subject, consisting of parts referable to the same principles; observed, that it was "a subject of high importance, involving the most momentous interests of the Company, and of extensive kingdoms, for the present, and all future time;" that they could not, thence, but feel solicitude in being called to decide upon it; but seeing a decision was necessary, they should give the result of their most serious consideration, "conducted with an earnest desire of acting upon the justest principles of policy; and of promoting the lasting welfare of their territories; and of all the interests connected with them." In the first place, it afforded the court much satisfaction that the subject had received so ample a discussion in Bengal, where every argument and objection could be best felt and appreciated; and from the first Members of the Government, who had "shewn themselves possessed of that intelligence, candor, integrity, and public affection, which rendered them worthy of managing so great a question." They further remarked, that the difference of opinion, which had subsisted between Mr. SHORE and Lord CORNWALLIS, did not relate so much to general principles, as to the local application of them, at the present time, under actual circumstances; and that the ground of discussion was thus narrowed. Having then recapitulated the objections, above stated, against the immediate conclusion of a permanent settlement, the court observed, "no consequences more formidable could be presented to us than a diminution in perpetuity of the Company's revenue, with the still continued subsistence of all, or any, of those disorders in the mode of imposing and levying it, from the great body of the people, which have already done such essential injury to the country, and must ever prove a bar to its prosperity. Very clear and solid arguments were requisite to repel the diffidence which this view of the subject, from such an authority, had a tendency to create; and to encourage us to persevere in our original idea of giving a fixed constitution to the finance, and the land-tenures of the country. But this satisfaction Lord CORNWALLIS has afforded

us in his minutes of the 18th September 1789, and 3d February 1790; which we sincerely regard as two very valuable records; written with enlarged and just views; upon the soundest principles of policy; with perfect fairness, great acquaintance with the subject, and the most conclusive reasoning in favor of a permanent assessment. In these documents, (the last of which, if Mr. SHORE had seen it, might probably have removed his *doubts*, as he candidly styles the objections he left on record;) we find it convincingly argued, that a permanent assessment, upon the scale of the present ability of the country, must contain in its nature a productive principle; that the possession of property, and the sure enjoyment of the benefits derivable from it, will awaken and stimulate industry, promote agriculture, extend improvement, establish credit, and augment the general wealth and prosperity. Hence arises the best security that no permanent diminution can be expected to take place, at least to any considerable amount. Occasional deficiencies may occur, for a time, from the mismanagement of particular landholders; but it cannot be supposed that any of the lands will permanently be less productive than at present; and as we have reason to believe that the jumma now formed is moderate in its total amount, and properly distributed; the lands themselves will, in most instances, ultimately be a sufficiently security for the proportion charged upon them. With respect to losses from drought, inundation, and other casualties, these occur also in the present system; and usually fall upon the Company themselves; but it will hereafter be different; because the advantages of proprietary right, and secured profits in the landholder, will on his part afford means to support and incite exertions to repair them; the deficiencies of bad seasons will, on the whole, be more than counter-balanced by the fruits of favorable years; there will thus be a gradual accumulation, whilst the demands of government continue the same; and in every step of this progressive work, property becomes of more value; the owner of more importance; and the system acquires additional strength. Such surely appear to be the tendency and just consequences of an equitable fixed assessment."

Concurrence of
the Court of Di-
rectors with
Lord Cornwallis
upon certain
objections.

THE Court of Directors expressed their full concurrence in the sentiments of Lord CORNWALLIS, upon the objections drawn from the disorder and confusion of the land rents; the indefinite rules by which they were levied; the exactions consequent to this uncertainty; and the ignorance and incapacity of the landholders; all of which they considered justly chargeable upon “a system defective in its principle, and carrying through all the gradations of the people, with multiplied ill effects, that character of uncertain arbitrary imposition which originated at the head.” They also concurred in his Lordship’s reasoning upon another class of objections, formed upon still defective knowledge of the resources of the country, and of the collections actually made by the landholders and farmers. Admitting and lamenting the stated want of complete information upon these points, after the long course of opportunities afforded by twenty-five years possession of the country, the court thought it would be too sanguine to expect any future general improvement in this respect; “a conclusion specially fortified by the high principle, and energetic character of his Lordship’s administration; and the very able assistance which it had received in revenue affairs, from the distinguished talents of Mr. SHORE.” The greatest obstacle to the execution of the intended system, of permanency and certainty, appeared to be the difficulty of providing for an equitable adjustment, and collection, of the rents payable by the ryots to the landholders. It might indeed be hoped, that under the proposed system, the latter would gradually learn from experience, that their own interests are connected with the security and encouragement of the cultivators of the soil; and that the time would come when the advantage of every class of the community would be best promoted by leaving to every one the care and management of his own property without restriction. “But, (the court add,) as so great a change in habits and situation can only be gradual, the interference of government may, for a considerable period, be necessary to prevent the landholders from making use of their own permanent possession for the purposes of exaction and oppression. We therefore

“ therefore wish to have it distinctly understood, that while we
 “ confirm to the landholders the possession of the districts which
 “ they now hold, and subject only to the revenue now settled; and
 “ while we disclaim any interference with respect to the situation of
 “ the ryots, or the sums paid by them, with any view to an additi-
 “ on of revenue to ourselves; we expressly reserve the right
 “ which clearly belongs to us, as sovereigns, of interposing our
 “ authority in making, from time to time, all such regulations
 “ as may be necessary to prevent the ryots being improperly
 “ disturbed in their possession, or loaded with unwarrantable
 “ exactions. A power exercised for the purposes we have men-
 “ tioned, and which has no view to our own interests, except as
 “ they are connected with the general industry and prosperity
 “ of the country, can be no object of jealousy to the landhol-
 “ ders; and instead of diminishing, will ultimately enhance the
 “ value of their proprietary rights. Our interposition, where it
 “ is necessary, seems also to be clearly consistent with the prac-
 “ tice of the Mogul government; under which it appeared to be
 “ a general maxim, that the immediate cultivator of the soil,
 “ duly paying his rent, should not be dispossessed of the land he
 “ occupied. This necessarily supposes that there were some
 “ measures and limits by which the rent could be defined; and
 “ that it was not left to the arbitrary determination of the ze-
 “ mindar; for otherwise such a rule would be nugatory; and
 “ in point of fact the original amount seems to have been an-
 “ nually ascertained, and fixed by the act of the sovereign.”

HAVING thus explained their sentiments on the points con-
 nected with the question of a permanent assessment, the Court of
 Directors concluded with stating, that important and arduous as
 they considered the measure of a perpetual settlement, and irre-
 versible as it must be in its nature, they thought themselves
 bound, from considerations of duty to all the interests which it
 concerned, to proceed to it. “ No conviction (they observed)
 “ is stronger upon our minds than that instability, in the mode

Concluding or-
 ders of the Court
 of Directors for
 declaring the set-
 tlement, made
 with or on be-
 half of the land-
 holders, to be
 perpetual.

“ of administering our revenues, has had the most prejudicial
 “ effects upon the welfare of the provinces ; upon our affairs ;
 “ and the character of our government ; and of all the generat-
 “ ed evils of unsettled principles of administration, none has been
 “ more baneful than frequent variation in the assessment. It
 “ has reduced every thing to temporary expedient ; and destroyed
 “ all enlarged views of improvement. Impolitic as such a princi-
 “ ple must be at all times, it is peculiarly so with respect to a de-
 “ pendent country, paying a large annual tribute, and deprived
 “ of many of its ancient supports. Such a country requires espec-
 “ ally the aid of a productive principle of management ; and it
 “ is with solid satisfaction that we look to the great resource which
 “ it yet has in its uncultivated though excellent lands. What
 “ have all the attempts of nearly thirty years to this end produced ?
 “ What are we to expect from still leaving room for the principle
 “ of fluctuation which has prevailed during that period, though
 “ we may profess to place succeeding change at a remoter distance.
 “ Long leases, with a view to the equal gradual establishment of a
 “ permanent system, though recommended upon the ground of
 “ safety, we must think would still continue, in a certain degree,
 “ the evils of the former. Practise periodical corrections of the as-
 “ sessment would be, in effect, of the nature of a general increase ;
 “ and tend to destroy the hope of a permanent system ; with the con-
 “ fidence of exertion it is calculated to inspire. Had such a sys-
 “ tem been adopted twenty years ago, and fairly followed, it is
 “ not to be doubted that the produce, manufactures, and com-
 “ merce, of the country, would at this time have been in a more
 “ flourishing state ; and the people, sensible of a new order of
 “ things, of privileges, and prosperity, unenjoyed before, would
 “ have risen in their character, and felt real attachment to the
 “ government from which those blessings are derived. The go-
 “ vernment too, instead of being so much occupied as it has been
 “ in all time past, by the degrading struggle perpetually subsist-
 “ ing throughout the country, for taxes and rents, would, as our
 “ Governor General has already suggested, have had leisure to
 “ turn

“ turn its cares to other functions of the ruling power ; to the in-
 “ ternal regulation of the community ; the establishment of whole-
 “ some laws ; and the due administration of them. The principle
 “ therefore, which would have laid the foundation of all this,
 “ appears the only one still to be adopted. It places the security
 “ of the Company’s revenue on the only basis which we can disco-
 “ ver to be a solid one ; the growing prosperity of the country ;
 “ and hopeless alike of better lights than those already attained,
 “ and of an administration more fitted effectually to establish a
 “ great reform than that of which Lord CORNWALLIS is the head, we
 “ must be of opinion, with His Lordship, that to delay the introduc-
 “ tion of it, supposing always the first standard settlement properly
 “ formed, would be to postpone the commencement of the pros-
 “ perity and happiness of the country.” The instructions given
 and rules established, by the Governor General in Council, for
 the formation of this settlement had already received the hearty
 approbation of the Court of Directors as “ well calculated to
 inspire confidence, and remove abuse ; to ascertain and secure
 the rights of every individual ; and without imposing the authori-
 ty or diminishing the revenues of Government, to secure to the
 people a progress in prosperity, instead of decline.” They had
 also declared themselves satisfied with the amount of the settle-
 ment for the land revenue, as far as it had been concluded and
 communicated ; and they now added, as the final result of their
 deliberate consideration of the subject, “ we therefore direct you,
 “ if no new circumstance of importance has occurred to retard its
 “ natural operation, or to threaten the defeat of our reasonable
 “ expectation from it, to declare it, wherever it has been made
 “ with or on behalf of the landholders, perpetual. In order to
 “ leave no room for our intentions being at any time misunderstood,
 “ we direct you to be accurate in the terms in which our determi-
 “ nation is announced ; and you will be careful to have it trans-
 “ lated and circulated in the same manner as you have directed
 “ with respect to your own code of regulations. Having left it to
 “ your discretion to decide on the measures to be adopted relative
 “ to

“to the waste lands, you will of course determine whether any
 “reserve should be made in this declaration with a view to that
 “object; and you will, in a particular manner, be cautious so to
 “express yourselves as to leave no ambiguity as to our right to in-
 “terfere, from time to time as it may be necessary, for the pro-
 “tection of the ryots and subordinate landholders; it being our
 “intention, in the whole of this measure, effectually to limit our
 “own demands, but not to depart from our inherent right as so-
 “vereigns, of being the guardians and protectors of every class of
 “persons living under our government. We are not aware that
 “we have omitted a determination upon any article necessary,
 “or important, to your procedure to this last step; and we shall
 “be happy that Lord CORNWALLIS, who has done so much in
 “this arduous work, see no reason to deny himself the happiness
 “of announcing a new constitution to so many millions of the
 “Asiatic subjects of Great Britain.”*

ON

* The advantages and disadvantages of a tax upon the rent of land “imposed according
 “to a certain canon; every district being valued at a certain rent, which valuation is not
 “afterwards to be altered;” and a tax “imposed in such a manner and to rise or fall
 “with every variation in the real rent of the land, and to rise or fall with the improvement,
 “or declension of its cultivation,” are ably stated, upon general principles of policy, in
 SMITH’S *wealth of nations*, Book 5, Chap. 2, Part 2, of *taxes*. See also Sir JAMES
 STUART’S *Political Economy*, Book 5, Chap. 12, *Miscellaneous questions relating to*
taxes; and SINCLAIR’S *History of the public revenue of the British Empire*, Part 3,
 Chap. 4, § 1, *on the land-tax*. It must be remembered however that none of these writers
 had in view a foreign dependency, such as the British possessions in India. The question
 is fully considered, with respect to these territories, in Mr. FRANCIS’ *plan of settlement*,
 and papers accompanying it, written in 1776, and published in 1782. It is of no impor-
 tance what sentiments were entertained by an individual, on a subject no longer open to
 consideration; and the design of this work is not to state the private opinions of the
 author; but the policy which appears to have dictated the measures and regulations,
 which he has undertaken to relate and explain. Yet to obviate misconception, he sub-
 joins the following extract from a letter addressed by him to Lord CORNWALLIS, on the
 6th March 1789, in consequence of his being consulted relative to a plan of settlement
 proposed by Mr. THOMAS LAW, then Collector of Behar, the first principle of which was
 “that the land revenue of the whole of the Company’s territorial possessions in Bengal,
 “Behar and Orissa, (exclusive of land exempted from the payment of public revenue,
 “and tracts of waste land not annexed to any existing villages), be fixed once for
 “ever, subject only to a proportionate general addition when required by the exigencies of
 “government.” In considering whether this principle of assessment was “consistent
 with sound policy,” it was observed—“If *certainly* be the only requisite in taxation,
 “perhaps it is; though the unlimited power of increase, when required by undefined exi-
 “gencies, renders even this disputable. But if *equality* be also considered essential, I am
 “persuaded

On receipt of these definitive instructions, the Governor General in Council being of opinion that nothing had occurred to render it advisable to postpone the declaration authorized by the Court of Directors; but on the contrary, that a variety of considerations made it "highly expedient that the valuable rights and tenures conferred upon the landholders should be announced to them

Proclamation issued by the Governor General in Council, on receipt of definitive instructions from the Court of Directors.

"persuaded it is not; and that an equal land-tax, proportioned to the rent of land, as far as attainable without inconveniences greater than the inequality it would prevent; has been deemed just and expedient in Europe, will be proved by the accompanying extracts from the works of Sir JAMES STEWART, and Mr. ADAM SMITH. The arguments of these gentlemen, to my judgement, evince, that *the subjects of every state ought to contribute towards the support of the government, as nearly as possible in proportion to the revenue which they respectively enjoy under the protection of the state*: that a land-tax, which is imposed according to a certain invariable canon, though it should be equal at the time of its first establishment, necessarily becomes unequal in process of time, according to the unequal degrees of improvement or neglect in the cultivation of different parts of the country: and that a fixed tax payable in any specific coin, from variation in the value of money, may become oppressive to the landlord, or prejudicial to the sovereign. I further am satisfied that the equality of a land tax in this country is of infinitely more importance than in England. It there bears so small a proportion to the income of the landlord, that the payment of the highest rate never can be burdensome to him, nor can the difference of rate materially affect competition; but here the landholder is supposed to pay to government, after deducting from his gross receipts the expense of managing his estate, nine tenths of the neat rents receivable from his tenants. An overcess equal to a twentieth part of his computed rental might therefore deprive one landholder of half his proprietary income; whilst that of another might be doubled by an erroneous valuation and consequent under assessment of a tenth; and the latter would not only contribute to the state a much lower proportion of land tax than the former; but he might, by offering high wages, or favorable leases, entice away the others labourers and tenants to bring his own waste lands into cultivation, and also undersell him in every article of produce. It is likewise probable, that the annual exportation of specie from this country will in time diminish considerably the quantity in circulation, and thereby enhance the value of it; which in many instances might render the sum now fixed for the permanent tax of each estate exorbitant and oppressive. The above considerations induce me to think that the fixed assessment proposed by Mr. LAW, even if equal in the first instance, (which it is not pretended to be,) would be highly impolitic as a perpetual and unalterable regulation. I at the same time think, with Mr. SMITH, that *a considerable degree of inequality is not near so great an evil as a very small degree of uncertainty*; and with Mr. STEWART, that *when annual distributions are made, discontents constantly arise; and the pretended equality, thereby observed, produces worse effects than the inequalities which would follow from the other scheme*. I am therefore far from recommending a yearly scrutiny; but I conceive a new valuation, at the end of long periods, of thirty, forty, or fifty years, would, by establishing confidence, and encouraging improvement, produce all the advantages of an invariable assessment, without incurring its disadvantages. In a country where the interest of money doubles the principal in less than ten years, no one would fund it in land improvements, unless assured of a full return much within the shortest of the periods I have mentioned; and if a full return could be

them without delay;”* a proclamation, in the following terms, was issued on the 22d March 1793, and subsequently enacted into the primary regulation of the code bearing date the 1st May 1793.

ARTICLE

“depended on, no necessary encouragement to industry would be wanting.” It must however be admitted that many substantial advantages, public and private, result from a fixed assessment of the land tax; and since it has taken place in a large portion of the British possessions in India, I will now add (in 1813,) that I feel disposed to adopt the sentiments of a late enlightened statesman (Mr. BURKE,) who in a letter to his son, written in November 1777, on perusal of the plan suggested by Mr. FAANERS for a perpetual settlement of the land revenue in Bengal and its dependencies, expressed himself as follows. “The idea of forcing every thing to an artificial equality has some thing, at first view, very captivating in it. It has all the appearance imaginable of justice and good order; and very many persons, without any sort of practical purposes, have been led to adopt such schemes, and pursue them with great earnestness and warmth. I am, for one, entirely satisfied, that the inequality which grows out of the nature of things by time, custom, succession, accumulation, permutation, and improvement of property, is much nearer that true equality which is the foundation of equity and just policy, than any thing that can be contrived by the tricks and devices of human skill. What does it amount to, but that, after some little jumbling, some men have better estates than others. I am certain that when the financial system is but tolerably planned, it will catch property in spite of all its doublings; and sooner or later those who have most will pay most; and this is the effective equality, which circumstances will bring about themselves, if they are left to their own operation.” *Life of E. BURKE, by R. BISSSET; vol. 2, page 147.*

* The following reasons were noticed in a letter from the Governor General in Council to the Court of Directors, dated 6th March 1793. “The seasons have this year been remarkably favorable, and abundance reigns throughout the country. The public credit is high; the paper in circulation, bearing an interest of eight per cent, selling at a premium of one per cent; and the interest of money is proportionably low. As this paper is in a course of payment, there is every ground to expect, that the large capitals possessed by many of the natives, (which they will have no means of employing when the public debt is discharged,) will be applied to the purchase of landed property, as soon as the tenure is declared to be secure; and they are capable of estimating what profit they will be certain of deriving from it, by the public tax upon it being unalterably fixed. With respect to those landholders, with whom a ten years settlement has been concluded, the announcing to them, that their jumma is fixed for ever, will not only incline them to pay their current revenue with cheerfulness, but add to their ability to discharge it, by the credit which they will obtain from the increased value of their tenures. On the other hand, the declaration will not fail to render the few landholders, who have not entered into engagements, eager to secure to themselves the same valuable rights and privileges.” In the same letter, the Court of Directors were informed, in answer to a suggestion respecting the future gradual assessment of waste lands when brought into cultivation, if not inconsistent with the terms of the decennial settlement or likely to retard the progress of cultivation; that the Governor General in Council were of opinion, “any attempt to stipulate for a proportion of their produce would not only be considered a breach of the engagements entered into with the landholders; but would greatly counteract, if not altogether damp, that spirit of industry and improvement to excite which is the great object of fixing the tax upon each estate.” It was added. “We think this a proper opportunity to observe, that if, at any future period, the

ARTICLE 1. "In the original regulations for the decennial settlement of the public revenue of Bengal, Behar, and Orissa, passed for these provinces respectively on the 18th September 1789, the 25th November 1789, and the 10th February 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the jumma assessed upon their lands under those regulations would be continued after the expiration of the ten years, and remain unalterable for ever; provided such continuance should meet with the approbation of the Honorable Court of Directors for the affairs of the East India Company, and not otherwise." **Art. 2.** "The Marquis CORNWALLIS, Knight of the most Noble Order of the Garter, Governor General in Council, now notifies to all zemindars, independent talookdars and other actual proprietors of land, paying revenue to government, in the provinces of Bengal, Behar, and Orissa, that he has been empowered by the Honorable Court of Directors for the affairs of the East India Company, to declare the jumma which has been or may be assessed upon their lands under the regulations abovementioned fixed forever." **3.** "The Governor General in Council accordingly declares to the zemindars, independent talookdars, and other actual proprietors of land, with or on behalf of

Reg. 1, 1790
§ 2. Decennial settlement declared conditionally permanent by the original regulations.

Section 3.
Governor General in Council empowered to declare the jumma, assessed upon the lands under those regulations, fixed for ever.

Section 4.
Jumma assessed upon the lands of proprietors with or on behalf of whom a

the public exigencies should require an addition to your resources, you must look for this addition in the increase of the general wealth, and commerce of the country; and not in the augmentation of the tax upon the land. Although agriculture and commerce promote each other, yet in this country, more than in any other, agriculture must flourish, before commerce can become extensive. The materials for all the most valuable manufactures are the produce of its own lands. It follows therefore that the extent of its commerce must depend upon the encouragement given to agriculture; and that whatever tends to impede the latter, destroys the two great sources of its wealth. At present almost the whole of your revenue is raised upon the lands; and any attempt to participate with the landholders in the produce of the waste lands would (as we have said) operate to discourage their being brought into cultivation; and consequently prevent the augmentation of articles for manufacture or export. The increase of cultivation (which nothing but permitting the landholders to reap the benefit of it can effect) will be productive of the opposite consequences. To what extent the trade and manufactures of this country may increase under the very liberal measures which have been adopted for enabling British subjects to convey their goods to Europe at a moderate freight, we can form no conjecture. We are satisfied however, that it will far exceed general expectation; and the duties on the import and export trade (exclusive of any internal duties which it may in future be thought advisable to impose,) that may hereafter be levied, will afford an ample increase to your resources; without burdening the people or affecting in any shape the industry of the country."

whom

Settlement has been concluded, declared fixed for ever.

Section 5.
Jumma which may be hereafter agreed to by proprietors, whose lands are held khas or let in farm, declared fixed for ever.

Section 6.
Jumma at which lands belonging to government, may be transferred to individuals, declared fixed for ever.

Section 7.
Assessment is

whom a settlement has been concluded under the regulations above-mentioned, that at the expiration of the term of the settlement, no alteration will be made in the assessment which they have respectively engaged to pay; but that they and their heirs and lawful successors will be allowed to hold their estates at such assessment for ever." Art. 4. "The lands of some zemindars, independent talookdars, and other actual proprietors of land, having been held khas, or let in farm, in consequence of their refusing to pay the assessment required of them under the regulations abovementioned, the Governor General in Council now notifies to the zemindars, independent talookdars, and other actual proprietors of land, whose lands are held khas, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them in conformity to the regulations abovementioned; and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be permitted to hold their respective estates at such assessment for ever: and he declares to the zemindars, independent talookdars, and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer;) but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated; and that no alteration shall afterwards be made in that assessment; but that they and their heirs and lawful successors shall be allowed to hold their respective estates at such assessment for ever." Art. 5. "In the event of the proprietary right in lands that are or may become the property of government being transferred to individuals, such individuals, and their heirs, and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred, for ever." Art. 6. "It is well known to the zemindars, independent talookdars,

lookdars, and other actual proprietors of land, as well as to the inhabitants of Bengal, Behar, and Orissa, in general, that from the earliest times until the present period the public assessment upon the lands has never been fixed; but that according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that for the purpose of obtaining this increase not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands; and either to let them in farm, or to appoint officers on the part of government to collect the assessment immediately from the ryots. The Honorable Court of Directors considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zemindars, independent talookdars, and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country. The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands under the certainty that they will enjoy exclusively the fruits of their own good management and industry; and that no demand will ever be made upon them, or their heirs or successors, by the present or any future government, for an augmentation of the public assessment in consequence of the improvement of their respective estates. To discharge the revenues at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their dependent talookdars and ryots, are duties at all times indispensably required from the proprietors of land, and a strict observance of those

former times
liable to varia-
tion at the dis-
cretion of go-
vernment.

Motives of the
Court of Direc-
tors for abolish-
ing this usage,
and fixing the
assessment;
which is declar-
ed unalterable
by any future
government.

Proprietors ex-
pected to im-
prove their es-
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quence of the
profits being se-
cured to them.

Conduct to be
observed by the
proprietors of
land, towards
their dependent
talookdars and
ryots.

duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued. The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent talookdars and ryots, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them. He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them that in future no claims or applications for suspensions on account of drought, inundation, or other calamity of season, will be attended to, but that in the event of any zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue, which has been or may be assessed upon their lands under the above mentioned regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place." 7. "To prevent any misconstruction of the foregoing articles, the Governor General in Council thinks it necessary to make the following declarations to the zemindars, independent talookdars, and other actual proprietors of land. *First.* It being the duty of the ruling power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependent talookdars, ryots, and other cultivators of the soil; and no zemindar, independent talookdar, or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment, which they have respectively agreed to pay. *Second.* The Governor General in Council having, on the 28th July 1790, directed the sayer collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sus-

tained

No claims for remissions or suspensions to be admitted on any account.

Lands of proprietors to be invariably sold for arrears.

Section 8. Declarations to prevent misconstruction of foregoing articles.

Government to enact such regulations as they may think necessary for the welfare of the dependent talookdars, and cultivators; and proprietors not to withhold the revenue on that account.

All internal duties that may be hereafter established to belong exclusively to government.

tained by them in consequence of this abolition, and he now declares that if he should hereafter think it proper to re-establish the sayee collections, or any other internal duties, and to appoint officers on the part of government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

Third. The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated, and paying no public revenue, which have been or may prove to be held under illegal or invalid titles. The assessment so imposed will belong to government, and no proprietor of land will be entitled to any part of it. *Fourth.* The jumma of those zemindars, independent talookdars, and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of any allowances which have been made to them in the adjustment of their jumma, for keeping up tannahs, or police establishments; and also of the produce of any lands, which they may have been permitted to appropriate for the same purpose; and the Governor General in Council reserves to himself, the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper, in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of government to superintend the police of the country. The Governor General in Council however declares, that the allowances, or produce of lands, which may be resumed, will be appropriated to no other purpose, but that of defraying the expense of the police; and that instructions will be sent to the collectors not to add such allowances, or the produce of such lands, to the jumma of the proprietors of land; but to collect the amount from them separately. *Fifth.* Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first article of the regulations regarding disqualified landholders, passed on the 15th July 1791, liable to sale for any arrears which have accrued

Jumma that may be assessed on lands now held exempt from revenue to belong exclusively to government.

Police allowances in land or money, received by proprietors whose jumma is declared fixed, resumable by government.

Allowances that may be so resumed not to be added to the jumma, but to be collected separately and applied solely to the police.

Estates of disqualified proprietors not liable to sale for arrears of assessment accruing whilst they are deprived of the management of them.

or may accrue on the fixed jumma that has been or may be assessed upon their lands under the abovementioned regulations for the decennial settlement; provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands under the said regulations of the 15th July 1791. It is to be understood however, that whenever all or any of the descriptions of disqualified landholders, specified in the first article of the last mentioned regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering, or abolishing those regulations, the lands of such proprietors will be held responsible for the payment of the fixed jumma that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first article of the regulations of the 15th July 1791, are and will be held answerable for any arrears that are or may become due from them on the fixed jumma, which they or any person on their behalf have engaged or may engage to pay, under the above mentioned regulations for the decennial settlement." Art. 8. "That no doubt may be entertained whether proprietors of land are entitled, under the existing regulations, to dispose of their estates without the previous sanction of government, the Governor General in Council notifies to the zemindars, independent talookdars, and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Mahomedan or the Hindoo laws, (according as

the

Section 9.
Proprietors de-
clared privi-
leged to transfer
their lands with-
out the sanction
of government.

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be con-
to law

the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter code; and that they be not repugnant to any regulations now in force which have been passed by the British administrations, or to any regulations that they may hereafter enact." Art. 9. "From the limitation of the public demand upon the lands, the neat income, and consequently the value, (independent of increase of rent obtainable by improvements) of any landed property, for the assessment on which a distinct engagement has been or may be entered into between government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jumma assessed upon it (which agreeably to the foregoing declarations is to remain unalterable for ever to whomsoever the property may be transferred) with the whole of its produce, allowing for the charges of management. But it is also essential that a notification should be made of the principles upon which the fixed assessment, charged upon any such estate, will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots; or of a portion of it being transferred in one or in two or more lots; or of its being joint property, and a division of it being made amongst the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jumma with which the several shares would be chargeable in such cases, the real value of each share would be uncertain; and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained. The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases abovementioned; but as government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the

and not contrary to any existing regulation.

Section 10.
Rules for apportioning the fixed jumma on portions of estates in the event of their being disposed of at public sale, or transferred by the proprietors; and on shares of estates if divided amongst the joint proprietors, upon the transfer or division being notified to the collector, or other prescribed officer; and the jumma so adjudged declared fixed for ever.

cases above specified to be left to the proprietors ; he requires that all such transfers or divisions, as may be made by the private act of the parties themselves, be notified to the collector of the revenue of the zillah in which the lands may be situated ; or such other officer as government may in future prescribe ; in order that the fixed jumma assessed upon the whole estate may be apportioned on the several shares in the manner hereafter directed ; and that the names of the proprietors of each share, and the jumma charged thereon, may be entered upon the public registers ; and that separate engagements for the payment of the jumma assessed upon each share may be executed by the proprietors ; who will thenceforward be considered as actual proprietors of land. And the Governor General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the collector of the revenue of the zillah, or such other officer as may be hereafter prescribed, for the purposes beforementioned, the whole of such estate will be held responsible to government for the discharge of the fixed jumma assessed upon it, in the same manner as if no such transfer or division had ever taken place.

But the transfer of dependent talooks not to affect the rights or claims of government in any way.

The Governor General in Council thinks it necessary further to notify in elucidation of the declarations contained in this article (which are conformable to the principles of the existing regulations) that if any zemindar, independent talookdar, or other actual proprietor of land, shall dispose of a portion of his or her lands as a dependent talook, the jumma which may be stipulated to be paid by the dependent talookdar will not be entered upon the records of government ; nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever ; nor will it be allowed in any case to affect the rights or claims of government any more than if it had never taken place. *First.* In the event of the whole of the lands of a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement

Assessment how to be apportioned when the whole of an estate may be disposed of by

has

has been or may be concluded under the regulations above mentioned, being exposed to public sale by the order of the Governor General in Council for the discharge of arrears of assessment, or in consequence of the decision of a court of justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter adopt; and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors shall hold them at the jumma at which they may be so purchased for ever. *Second.* When a portion of the lands of a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the regulations before mentioned, shall be exposed to public sale by order of the Governor General in Council for the liquidation of arrears of assessment, or pursuant to the decision of a court of justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce. The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter enact; and the purchaser or purchasers of such lands, and his, or her, or their heirs or successors

public sale in
two or more
lots.

Or when the
portion of an
estate may be
disposed of by
public sale, in
one, two, or
more lots.

Assessment how to be allotted to portions of estates when disposed of by private sale, gift, or other private transfer.

sors will be allowed to hold them at the jumma at which they may be so purchased for ever; and the remainder of the public jumma, which will consequently be payable by the former proprietor of the whole estate on account of the portion of it that may be left in his or her possession, will continue unalterable for ever. *Third.* When a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate in two or more distinct portions to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift, or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce, as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed in the existing regulations, or such other regulations as government may hereafter adopt; and the person or persons to whom such lands may be transferred, and his, or her, or their heirs and lawful successors shall hold them at the jumma at which they may be so transferred, for ever: and, where only a portion of such estates shall be transferred, the remainder of the public jumma, which will consequently be payable by the former proprietor of the whole estate, on account of the lands that may remain in his or her possession, shall be continued unalterable for ever. *Fourth.* Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed jumma assessed upon the whole of the estate divided may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be

Or when a division may be made between sharers of lands held in joint property.

prescribed

prescribed by the existing regulations, or such other regulations as the Governor General in Council may hereafter adopt; and the sharers and their heirs and lawful successors shall hold their respective shares at the jumma which may be so assessed upon them for ever."

Art. 10. "The following rules are prescribed respecting the adjustment of the assessment on the lands of zemindars, independent talookdars, and other actual proprietors of land, whose lands are or may be held khas, or let in farm, in the event of their being disposed of by public sale, or transferred by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors. *First.* If the whole or a portion of the lands of a zemindar, independent talookdar, or other actual proprietor of land, who may not have agreed to the payment of the assessment proposed to him or her under the regulations abovementioned, and whose lands are or may be held khas, or let in farm, shall be exposed to public sale, in one or in two or more lots, pursuant to the decree of a court of justice, such lands, if khas, shall be disposed of at whatever assessment the Governor General in Council may deem equitable; and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors shall hold the lands at the assessment at which they may be so purchased for ever. If the lands at the time of their being exposed to sale shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions. The purchaser or purchasers shall receive during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive in virtue of his or her proprietary rights, on account of the lands so purchased; and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such shall assessment on account of the lands as government may deem equitable. The sum to be received by the purchaser or purchasers, during the unexpired part of the term of the lease of the farmer, and the jumma to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale; and such purchas-

Section 11.
Rules for adjusting the jumma of lands held khas or let in farm, in the event of the whole or any part of them being disposed of by public sale, or private transfer; or divided amongst the proprietors; and the jumma so adjusted declared fixed for ever.
Rule when such lands may be disposed of by public sale.

If khas at the time of sale,

Or if held in farm.

What rule applicable to khas or farmed lands disposed of by private sale, gift, or other private transfer.

er or purchasers, and his or her or their heirs and lawful successors shall be allowed to hold the lands at the assessment at which they may be so purchased for ever. *Second.* If a zemindar, independent talookdar, or other actual proprietor of land, whose lands are or may be held khas, or let in farm, shall transfer by private sale, gift, or otherwise, the whole or a portion of his or her lands in one, or in two or more lots, the person or persons to whom the lands may be so transferred, shall be entitled to receive from government, (if the lands are held khas) or from the farmer, (if the lands are let in farm) the maliconnah to which the former proprietor was entitled on account of the lands so transferred. Persons to whom such lands may be so transferred, will stand in the same predicament as the zemindars, independent talookdars, or other actual proprietors of land mentioned in the fourth article, whose lands are held khas, or have been let in farm, in consequence of their refusing to pay the assessment required of them, under the beforementioned regulations for the decennial settlement; and the declarations contained in that article are to be held applicable to them. *Third.* In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held khas or let in farm, the proprietors of the several shares will stand in the same predicament with regard to their respective shares, as the zemindars, independent talookdars, and other actual proprietors of land specified in the fourth article, whose lands have been let in farm or are held khas, in consequence of their having refused to pay the assessment required of them, under the beforementioned regulations for the decennial settlement; and the declarations contained in that article are to be considered applicable to them."

Or when such lands may become the joint property of two or more persons.

Further notification of views of government in declaring a right of property, and fixing the assessment; contained in preamble to Regulation 2, 1793.

THE following notification of the views of government in declaring a property in the soil to be vested in the landholders, and fixing the public assessment upon their estates in perpetuity, was also given in the preamble to Regulation 2, 1793. "In the British territories in Bengal, the greater part

part of the materials required for the numerous and valuable manufactures, and most of the other principal articles of export, are the produce of the lands. It follows, that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture. But it is not for commercial purposes alone, that the encouragement of agriculture is essential to the welfare of these provinces. The Hindoos, who form the body of the people, are compelled by the dictates of religion to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the natives, as are not of that persuasion, are from habit or necessity in a similar predicament. The extensive failure or destruction of the crops; that occasionally arises from drought or inundation, is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and manufacturers; from whose labours the country derives both its subsistence and wealth. Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities, until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments, and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and as a necessary consequence, the stock of grain in the country at large, shall always be sufficient to supply those occasional, but less extensive deficiencies in the annual produce, which may be expected to occur notwithstanding the adoption of the above precautions to obviate them. To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British administration has been directed in its arrangements for the internal government of these provinces. As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue

revenue payable to government from each estate has been fixed for ever. These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose. The property in the soil was never before formally declared to be vested in the landholders; nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of government. With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of government. The amount of it was fixed upon an estimate, formed by the public officers, of the aggregate of the rents payable by the ryots or tenants for each begah of land in cultivation; of which, after deducting the expenses of collection, ten elevenths were usually considered as the right of the public, and the remainder the share of the landholder.* Refusal to pay the sum required of him was followed by his removal from the management of his lands; and the public dues were either let in farm or collected by an officer of government; and the abovementioned share of the landholder, or such sum as special custom or the orders of government might have fixed, was paid to him by the farmer, or from the public treasury. When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate; and monied men had no encouragement to embark their capital in the purchase or improvement of land; whilst not only the profit, but the security for the capital itself was so precarious. The same causes therefore which prevented the improvement of land, depreciated its value."

* The government received ten-elevenths, or 100 out of 110, of the neat rents of land, when the landholder's *Malikanah* was calculated at 10 per cent on the sudder jumma, or revenue payable to government. But in general, when the lands were not let in farm under a stipulation that the farmer should pay the *Malikanah* at the above rate to the landholder, in adjusting the assessment of a malgozary estate the division of the computed rent produce, after deducting charges of management, between government and the semiindar or other sudder landholder, was nine-tenths, or 90 parts in 100, to the former; and one-tenth, or ten per cent, to the latter. See note to vol. I, page 103.

THE result of the inquiries ordered by the Court of Directors to ascertain the jurisdictions, rights, and privileges of zemindars, talookdars, and jagheerdars, will be stated in the next part of this analysis. It is enough to mention in this place that the court declared the "important part of these inquiries, which related to the "persons with whom the settlement should be made, to have been "conducted highly to their satisfaction; because it had been "carefully directed to the object of complying in every instance "with their precedent orders, which, on the ground of past experience and actual practise, as well as from a desire to give the "most favorable consideration to the supposed claims of the zemindars, enjoined a preference to that order of persons, unless "in cases of peculiar disqualification."

Sentiments of the Court Directors on the inquiries made relative to the persons with whom the permanent settlement should be concluded.

THE exceptions to the general rule, for making the decennial settlement with the actual proprietors of the soil, included the following descriptions of persons. 1. Females, who might not be judged competent to the management of their own estates. 2. Minors. 3. Idiots, lunatics, or others rendered incapable of managing their lands by natural defects, or infirmities of whatever nature. 4. Persons who might be deemed disqualified on account of their contumacy, or notorious profligacy of character. Provided, with regard to the whole of these descriptions of disqualified landholders, that they were not partners in zemindari, independent talooks, or other estates, held by them with others of a different description; in which case they were allowed, themselves if competent, or if not through their guardians, to engage for the settlement, with their partners, and to elect a joint manager. The lands of disqualified proprietors, not held in partnership with others, and consequently excluded for a time from the general settlement, were placed under the superintendence of a court of wards, to be managed for the benefit of the proprietors, as more particularly noticed in stating the functions of that court. The original rule of disqualification was however modified by Regulation 7, 1796, as far as it respected the fourth description of per-

Reg. 8, 1796. § 20. What persons were excepted from the general rule for making the settlement with the actual proprietors of the soil.

Section 20. Lands of such persons placed under a court of wards to be managed for benefit of the proprietors.

Reg. 7, 1796. Original rule subsequently revoked, with respect to persons deemed

disqualified for
management of
their estates on
account of con-
tumacy, or no-
torious proflig-
acy of charac-
ter.

sons above enumerated. That such persons might not be deprived of the management of their estates without a fair investigation and the fullest evidence, it was provided by the fourth clause of Section 5, Regulation 10, 1793, that if a proprietor of land should be deemed disqualified on account of contumacy, or notorious profligacy of character, an inquiry into the circumstances of the case should be made in the presence of the party, or his vakeel, by the judge of the zillah or provincial court, (as might be directed by the Court of Sudder Dewanny Adawlut;) that the party, or his vakeel, should be allowed to bring any evidence he might have to adduce; and finally that the whole proceedings should be submitted for the consideration and decision of the Sudder Dewanny Adawlut; which court was to determine whether the stated ground of disqualification were well founded or otherwise. The public judicial inquiry, thus ordered, was obviously intended for the security and benefit of the parties to be affected thereby. But experience proved it liable to ill consequences which over-balanced the advantages proposed by it; and that by an exposure of private conduct and character in a public court of justice it was extremely offensive to those who were the objects of it. It might also, in some instances, particularly to Hindoo proprietors of land, produce serious injury. For these reasons, “and further in consideration of the general and indefinite terms in which the grounds of disqualification were unavoidably stated; as well as in expectation that the objects intended by the exclusion of landholders from the management of their estates on these grounds would be sufficiently attained by the due administration of the laws, and by the sense of interest which under a fixed assessment should impel every landholder to the utmost improvement of his estate,” the Governor General in Council resolved to do away the restrictions which had been established, at the time of forming the decennial settlement, with respect to proprietors of land deemed to be disqualified for managing their estates on account of contumacy, or notorious profligacy of character; reserving only the power of determining whether the new rule, for admitting such landholders

to engage for the settlement of their estates, should be applied retrospectively, or not, according to the circumstances of each particular case; and the arrangements which had been made for the management of the estate, of which an early report was required from the Board of Revenue. A further exception, but for a short period only, to the general conclusion of the decennial settlement with the landholders, applied to proprietors in balance to Government; and not paying the arrears due from them; in which instances it was directed that "no settlement is to be concluded with the defaulting proprietors; but their lands are to be let in farm, or held *khas*, for a period of three years, at the discretion of the collector." An exclusion of longer duration was necessarily provided for, in the few cases wherein *Mocurrery* or permanent leases, for an unlimited period, had been granted by competent authority, to persons not the actual proprietors of the lands. It was ordered that such leases, "if granted or confirmed by the Supreme Government, or obtained previous to the Company's accession to the Dewanny, should be continued in force during the lives of the lessees;" (subject to an abatement for the authorized sayer duties resumed or abolished;) but that, on their death, the settlement should be made with the actual proprietors of the soil. This rule, and a further rule, for continuing in force *mocurrery* grants to proprietors of the lands included in them, which had been made or confirmed by the Supreme Government, were however left to the final decision of the Court of Directors. But grants of this description made since the Company's Dewanny accession, to persons not proprietors of the land, and never sanctioned by the Supreme Government, were set aside as illegal; and the settlement was to be concluded with the actual proprietors of the soil; though, in these instances, if the *mocurrery*dar had been in possession for a term exceeding twelve years, they were, on a principle of humane consideration, to receive during their lives (subject to the pleasure of the Court of Directors) the difference between the jumma at which the lands were farmed to them, and that which might be now engaged for by the proprietors; added to the neat produce

Reg. 8, 1793,
§ 22.
Landholders in
balance to go-
vernment, and
not paying their
arrears, excluded
from the settle-
ment of their
estates for three
years.

Section 16, 17
18.
Provisions for
cases of *mocur-
rery* or perma-
nent grants for
an indefinite pe-
riod, to persons
being, or not
being, proprie-
tors of the land
included in
them.

Section 13.
With whom the
settlement to be
made in cases
of mortgage.

of the authorized sayer resumed, or abolished. Another rule, to provide for cases of mortgage, that "if the mortgagee has obtained possession of the land the settlement is to be made with them;" can scarcely be deemed an exception to the general principle of a settlement with the landholders; as the proprietor was at the same time declared entitled to succeed to the engagement of the mortgagee, on recovering possession of his estate, either by the discharge of his obligations, or by the decision of a court of justice.

Reg. 3, 1793.
§ 4. Actual
proprietors of
the soil, with
whom the set-
tlement was to
be concluded.

WITH the exceptions stated, the rule for the decennial settlement directed it to be "concluded with the actual proprietors of the soil, of whatever denomination; whether zemindars, talookdars, or chowdries." And it being necessary to determine what talookdars were to be considered actual proprietors of the lands composing their talooks, they were declared to be of four descriptions. 1. "Talookdars who purchased their lands by private or at public sale, or obtained them by gift from the zemindar or other actual proprietor of land to whom they now pay the revenue assessed upon their talooks, or from his ancestors, subject to the payment of the established dues of Government; and who received deeds of sale, or gift, of such land, from the zemindar, or sunnuds from the khalsa, making over to them his proprietary rights therein." 2. "Talookdars whose talooks were formed before the zemindar, or other actual proprietor of land, to whom they now pay their revenue, or his ancestors, succeeded to the zemindary." 3. "Talookdars, the lands comprised in whose talooks were never the property of the zemindar, or other actual proprietor of the soil, to whom they now pay their revenue, or his ancestors." 4. "Talookdars who have succeeded to talooks of the nature of those described in the preceding clauses, by right of purchase, gift, or inheritance, from the former proprietors of such talooks."

Article and po-
lice dictated the
separate assess-
ment of the ta-
lookdars above
described.

THE separation of the talookdars thus described, from the authority and future control of the zemindars through whom many of them had hitherto paid their revenue, was dictated alike by justice.

justice and policy. Their proprietary rights, in the land composing their talooks, being considered equal to the right of property which the zemindars had themselves possessed, it appeared equitable that they should participate in all the benefits of a fixed assessment; and unjust to leave them exposed to exaction, or molestation, from the zemindars. In pursuance of this principle, it was further provided that zemindars, or other proprietors of land, from whose zemindaries or estates talooks might be separated, should not be appointed *Tehseeldars* (native collectors) to receive the revenue of such talooks; but that the office of *tehseldar*, when necessary on account of the number of petty landholders, at a distance from the collector's place of residence, should in every instance be given to some other person of character and responsibility; and that the whole expence be defrayed by Government. The improvement of the separated talooks, and consequent promotion of the general improvement of the country, might also be expected from their distinct and permanent assessment. And subdivisions of the extensive zemindaries, which had grown in many instances to an immoderate size, under a despotic government that arbitrarily, or from motives of interest or convenience, annexed the tenures of inconsiderable landholders to the jurisdiction of the more powerful, were obviously desirable, as far as the claims of justice would permit, under a system of regular and hereditary possession. The determination of the Governor General in Council, to disjoin entirely from the zemindaries to which they had been annexed such of the existing talooks as came within the descriptions above stated, was therefore pronounced by the Court of Directors to be a "wise and important measure, the offspring of the same comprehensive views which had directed the rest of their conduct in this great concern."

Section 18.
And provision,
made that such talookdars should not, when separated, pay their revenue through the zemindars.

Decision of the
Court of Directors upon this measure.

Provisions made
at the same time
for securing the
rights of the zemindars, with
respect to certain talooks, not
entitled to separation.

At the same time a just regard was due to the acknowledged rights of the zemindars, in cases where a specific stipulation had taken place between the zemindar and talookdar, that the latter should pay his revenue through the former; or where the title-

deeds for the talook did not transfer a property in the soil; or where the tenure was conditionally granted, under the denomination of jungle-boory (lit. *wood-culling*) for bringing forest land into a state of cultivation on terms of future advantage to the grantor; who frequently, in such instances, assisted the grantee with advances of money, besides an exemption from rent for a certain period. To secure the rights of the zemindars, in all cases of these descriptions, it was provided—1. That talookdars, “who now pay the revenue assessed upon their lands through a zemindar, or other actual proprietor of land, and whose title-deeds contain a clause stipulating, that their revenue is to be paid through him, shall continue to pay their revenue through such zemindar, or other actual proprietor of land, as heretofore.” 2. That “talookdars, whose talooks are held under writings, or sunnuds from zemindars, or other actual proprietors of lands, which do not expressly transfer the property in the soil, but only entitle the talookdar to possession so long as he continues to discharge the rent or perform the conditions stipulated therein, are considered as leaseholders only, not actual proprietors of the soil; and consequently are not entitled to be rendered independent of the zemindar, or other actual proprietor of land, from whom they derive their tenures, provided they now pay the rent assessed upon their talooks to him.” 3. That “talookdars also, whose tenure is denominated jungle-boory, and is of the following description, are not considered entitled to separation from the proprietors of whom they hold. The pottahs granted to these talookdars, in consideration of the grantee clearing away the jungle, and bringing the land into a productive state, give it to him and his heirs in perpetuity, with the right of disposing of it either by sale, or gift; exempting him from payment of revenue for a certain term, and at the expiration of it, subjecting him to a specific assul jumma, with all increases, abwabs, and mhatoots imposed on the pergunnah generally; but this for such part of the land only as the grantee brings into a state of cultivation; and the grantee is further subject to the payment of a certain specified portion of all complimentary

Section 6.
Talookdars,
whose title deeds
stipulate for pay-
ment of the re-
venue through
the zemindar,
to pay through
him as hereto-
fore.

Section 7.
Talooks held
under writings
which do not
expressly trans-
fer the property
in the soil, but
give a right of
possession only,
on certain con-
ditions, also
considered de-
pendent estates.

Section 8.
As well as jun-
gle-boory ta-
looks, granted
for bringing for-
est lands into
cultivation, on
terms of mutual
benefit to the
zemindar and
talookdar.

complimentary presents and fees, which he may receive from his under tenants, exclusive of the fixed revenue. The pottali specifies the boundaries of the land granted; but not the quantity of it, until it is brought into cultivation."

A species of tenure, called *Malguzary Ayma*, or land granted for the support of individuals, subject to a small fixed revenue; being of a nature analogous to the talookdary, it was further provided that, "such malguzary ayma tenures as are held under grants of the Mahomedan government; previous to the Company's accession to the Dewanny, or which have been since granted by proprietors of estates for a consideration received by them; are to be separated from the proprietors to whom their revenue is now paid; as coming within the spirit of the rules for the separation of talookdars, who are proprietors of the lands composing their talooks. But malguzary ayma tenures which may appear to have been *bond fide* granted for the purpose of bringing waste lands into cultivation, shall continue included in the estates to which they are now annexed; as coming within the rules respecting jungle-boory talooks."

Section 10.
Malguzary ayma tenures declared subject to the same rules as talooks. 1.

In carrying into effect the rules prescribed for the separation of talookdars, possessing a right of property in the lands composing their talooks, the collectors were directed to proceed as follows: "Every talookdar being considered as the rightful possessor of his talook, until a better title is established against him by due course of law, the point to be ascertained by the collectors; is not whether the holders of the several talooks under their authority are the lawful possessors of the talooks held by them; but whether the nature of their tenure is such as to entitle them to separation under the prescribed rules; to ascertain which, they are to call upon the talookdars to produce their title-deeds; and after having examined them, are to separate from the jurisdiction of the zemindars, or other actual proprietors of estates, those who may appear to them to be actual proprietors of the lands composing their talooks,

Sec. 10, 11, 12.
Collectors to proceed in carrying into effect the rules prescribed for the separation of talookdars and malguzary ayma.

books, as described; continuing the remainder under the zemindars, or other actual proprietors, as heretofore. If a talookdar should have no title-deeds to produce, the collector is to make a summary enquiry into his right to separation, and, after attending to such proofs and documents as may be produced by the talookdar in support of his title to separation, and by the zemindar, or other actual proprietor, in objection thereto, is to decide, according to the best of his judgment, whether such talookdar be entitled to separation or not, and conclude the settlement accordingly.* Both talookdars, and zemindars, or other actual proprietors, were at the same time allowed, if dissatisfied with the collector's summary inquiry and decision, to institute a regular suit, for trying the contested right of property, in the zillah dewanny adawlut; and the ultimate right of the talookdar to become independent of the zemindar, or other landholder, to whose estate his talook had hitherto been annexed, was thus left to depend upon the final determination of the civil courts.

Numerous talookdars separately assessed under operation of above rules; at time of decennial settlement and subsequently. Regulation 8, 1793 §. 14. Their revenue payable into the collector's treasury or to a local tehsildar.

Reg. 1, 1801, §. 14. Period fixed for operation of rules concerning separable talookdars.

UNDER the operation of these rules numerous talookdars were liberated from the vexatious control of zemindars and their agents, and assessed with a fixed revenue, payable immediately into the collector's treasury, or to a local tehsildar, as most convenient for them; both at the time of forming the decennial settlement, and subsequent thereto.* But it being necessary for the security of purchasers at the public sales that some period should be fixed, to prevent their being at all times liable to deprivation of a part of their purchases, it was required by Section 14, Regulation 1, 1801, that, "all talookdars who, as proprietors of the lands composing their talooks, may consider themselves entitled under Section 5, Regulation 8, 1793, or any other part of that regulation,

* Above three thousand were separated by the author of this Analysis, from the zemindary of Rajshahy alone. A summary inquiry was made in every instance, as directed, in the presence of the zemindar's wakil; and one appeal only is known to have been afterwards made to the civil court. But the zemindar having previously engaged for the revenue of his zemindary, including the talooks, he was allowed an abatement equal to the full amount assessed upon the latter, as provisionally stipulated with him.

to be separated from the zemindarries to which their talooks are attached, shall prefer a written application to the collector of the zillah, in which their talooks may be situated, for the separation thereof, within one year from the date of this regulation, under penalty of forfeiting all title to separation under Reg. 8, 1793, if they shall omit to apply as directed within the prescribed period; at the expiration of which the operation of the section abovementioned shall be considered extinct with regard to all talooks for which no claim to separation may have been then preferred; and such talooks shall thereafter be considered as dependant talooks, not entitled to be separated from the zemindarries to which they may be attached; though in other respects the rights of the talookdars are not meant to be in any degree affected by this regulation." It was further declared, by the section abovementioned of Reg. 1, 1801, that the rules regarding separable talooks contained in Reg. 1, 1793, were never meant to be applied to any new talooks, constituted since the period of the decennial settlement; and it was added—"by Section 9, Reg. 1, 1793, the zemindars and all other proprietors of land have been declared at liberty to transfer by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their respective estates; but by Section 10, of the same regulation, it is required that all such transfers be notified to the collector of the zillah, that the fixed jumma assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the names of the proprietors of each share, and the jumma assessed thereon, may be entered upon the public registers; and that separate engagements, for the payment of the jumma assessed upon each share, may be executed by the proprietors; who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made, the whole of the estate is declared responsible to government for the discharge of the fixed jumma assessed upon it, in the same manner as if no transfer had taken place. This declaration is also repeated in Sec. 28, Reg. 25, 1793, which

Rights of the talookdars, in other respects, not meant to be affected by this rule.
Rules contained in Reg. 8, 1793, regarding separable talooks, declared not applicable to any talooks constituted since the decennial settlement.
What rules apply to such talooks.

Transfer of the proprietary right in portions of estates since the date of Regulation 25, 1793, without abrogation of the rules contained in that regulation, and Regulation 1, 1793, declared invalid as far as respects the rights of government.

Nothing in this section to be applied to dependent talooks or other dependent tenures.

Reg. 8, 1793. Sec. 23 & 24 & 25. Provisions in rules for decennial settlement, relative to election of managers for joint estates, not within the jurisdiction of courts of wards.

contains the specific rules established by government for the division of estates paying revenue, and the allotment of the jumma upon the several portions thereof. If therefore any zemindar shall have disposed of his proprietary rights in any portion of his zemindarry, subsequently to the promulgation of the regulation abovementioned, whether under the denomination of an independent talook, or otherwise, and the talookdar, or other person to whom the portion of an estate may have been so transferred, shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the regulation, such transfer, as far as respects the rights of government, must be considered altogether invalid; and if the land, so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away. In such cases the lands transferred, until publicly registered and separately assessed, form part of an undivided estate; and as such are liable to be sold for any arrear of revenue which may be due from any part of the estate. Provided however, that nothing in this section be considered applicable to dependent talooks, or other tenures dependent on the estate to which they are attached, and from which, by their title deeds or otherwise, they are not entitled to be separated as a distinct estate."

THE rules for the decennial settlement contained a provision that where more proprietors than one possessed an undivided estate, and the whole of them were not disqualified landholders, so as to come within the jurisdiction of the court of wards, the settlement should be made with them jointly; and they were required to elect a serberakar, or manager, who was to have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of proprietors, or if any were absent of the majority of those present, was declared binding on the remainder in the choice of a mana-

ger;

ger ; and when the votes of the proprietors were equal, the election of the manager was to be determined by the greater interest of the several proprietors in the estate ; or if this should be also equal, the manager was to be appointed by the Board of Revenue. If part of the proprietors were minors, lunatics, idiots, or others having guardians, such guardians were to vote for them. And if the joint proprietors, or their guardians, should neglect to appoint a serberakar, on the requisition of the collector of the district, the latter was authorized to nominate a manager ; who on being confirmed by the Board of Revenue was to have the exclusive management of the estate ; the expense of management, and responsibility for the public revenue resting nevertheless with the proprietors. But experience having shewn that the sharers in joint estates were reluctant to elect a common manager, as thus prescribed in Sections 23, 24, and 25, of Reg. 8, 1793, and it appearing most conformable to the wishes and sentiments of the proprietors of such estates, as well as more consistent with public convenience, that they should be left to manage their own lands (of which they might at any time obtain a division under the general rules for the partition and distinct assessment of undivided estates) without any interference on the part of the officers of government, the sections abovementioned were rescinded by Section 2, Reg. 17, 1805; and it was thereby declared that “ the proprietors of joint undivided estates shall in future be left to manage their estates in such manner as they may think most advisable, under the general regulations, without any interference on the part of the collector or the Board of Revenue, in the appointment of a manager for the collection of the revenues of the lands from the tenants, farmers, and others.” It was at the same time notified that “ the estates of joint proprietors will of course be liable to be sold for the recovery of any arrears which may at any time become due therefrom to government, and the proprietors themselves shall be considered jointly and severally responsible for the payment of the public revenue assessed upon such estates, should it at any time be necessary to have

Reg. 17, 1805.
these provisions
found objectionable and
rescinded.

Section 2.
Proprietors of
joint estates de-
clared at liberty
to manage them
as they may
think advisable,
under the regu-
lations.

Estate of such
proprietors li-
able to be sold for
arrears, and the
proprietors
jointly and se-
verally respon-
sible for the reve-
nue.

have recourse to a sale of the separate property of any individual sharers, or to the confinement of their persons for the recovery of the arrears due from their estates to government. The payments of revenue shall be carried to the account of the estate at large, and not to the account of any individual proprietor. In cases in which one or more of the proprietors of a joint undivided estate may be minors, or may be otherwise disqualified for the management of their own concerns in consequence of natural defects or infirmities, the guardians of such persons, whether nominated by the will of their parents; or by the zillah judges under Reg. 1, 1800, shall superintend the interests of such disqualified persons; and shall exercise the same powers, in the management of the estate of their wards, as could be exercised by the proprietors themselves, were they qualified for the direction of their own affairs.*

Payments of revenue to be carried to the account of the estate at large, and not to the account of any individual proprietor.

The guardians of proprietors of joint undivided estates, who may be disqualified for the management of their own concerns, to exercise the same powers could be exercised by the proprietors, if qualified.

Reg. 8, 1793.
Sec 26.
Rule for agreeing or disagreeing to the proposed assessment of joint estates at the time of the decennial settlement.

In another Rule for the decennial settlement relative to joint estates, the determination of the majority of proprietors present, or if equal in number the determination of those who possessed the greater interest in the estate, was declared binding on the remainder in agreeing, or disagreeing, to the proposed assessment; the whole of the sharers being at the same time permitted to obtain a division of the lands, and a proportionate allotment of the revenue to their respective shares. But in instances wherein two or more proprietors were in separate possession of their several portions of an estate, held in their joint names, or in the name of one for the whole, the settlement was ordered to be made, for each portion, with the person in possession; and his land to be considered exclusively responsible for the revenue assessed upon it.

Section 27.
Which provision for a settlement with each sharer when in separate possession.

* The power of appointing managers of joint undivided estates, when the sharers in such estates may not agree amongst themselves, and the rights of any of them may be exposed to loss by the conduct of their partners, being thus taken away from the Revenue Department, it became necessary to provide for the occasional exercise of this power by the courts of justice. Sections 26 and 27, of Reg. 5, 1812, have accordingly been enacted for this purpose; and will be hereafter more particularly mentioned, with the rules established for facilitating the division of such estates; and securing the rights of joint proprietors.

If, after due inquiries, and reference to the mofussil records, the proprietors of any spot of land could not be ascertained, or if they were absent, an advertisement was directed to be issued, requiring the unknown proprietors in the former case, or the ab-entees in the latter, to attend within six months; at the expiration of which period, if they were not forthcoming, a settlement was ordered to be made for ten years with a farmer; allowing a preference to the zemindar nearest in situation, on his agreeing to the jumma and terms proposed by the collector. Where the property in lands was disputed, the settlement was to be made with the person in possession, under an express declaration that the estate, with the assessment upon it, was transferable to any other person to whom it might be adjudged. The same principle was adopted with respect to boundary disputes; which were left to be adjusted in the civil court; and the settlement, in the mean time, was to be made with the disputing parties, for the lands in their possession respectively. But if a case should occur in which none of the claimants had been previously in possession, they were allowed (on engaging for the revenue) to appoint a common manager, until their claims should be determined in the zillah dewanny adawlut; or if they should not agree in the appointment of a manager, the lands were to be held *khas*; and the surplus produce, after paying the revenue, was ordered to be kept in deposit till the right of property should be adjudged.

Section 29.
With whom settlement to be made, if the proprietors of any land could not be ascertained, or were absent, and should not attend on an advertisement.

Sec. 30, 31, 34.
Or where the property in land was disputed.

Rule in case none of the claimants had been previously in possession.

THE foregoing comprise all the rules for the decennial settlement of Bengal, Behar, and Orissa, which had immediate reference to the persons with whom the settlement was to be concluded. Special rules, adapted to the local circumstances of each province, were established for fixing the assessment; but previously to stating them it will be proper to notice the general rules applicable to the three provinces. Of these the most important was the following. "The assessment is to be fixed exclusive and independent of all duties, taxes, and other collections known under the general denomination of *sayer*; the collections made in the gunges,

The foregoing all the rules which had reference to the persons with whom the decennial settlement was to be formed.

General rules for fixing the assessment of the three provinces.

Reg. 8, 1793.

Section 35.
The assessment to be fixed exclusive of the *sayer*, with certain exceptions.

hauts, and bazars, (marts and markets, daily or occasional) situated within the limits of the town of Calcutta excepted; and excepting also the collections confirmed to the proprietors and holders of gunges, bazars, and hauts, by the resolutions passed by the Governor General in Council on the 11th June 1790.

Preamble to
Reg. 27, 1793.
Reasons stated
by government
for resuming
from the land-
holders, and
afterwards abo-
lishing, with
certain excep-
tions, the du-
ties levied un-
der the deno-
mination of *sayer*,
&c.

THESE resolutions will be more properly stated under the head of *market duties, and sayar abolished*; but an extract from the preamble to Reg. 27, 1793, may be introduced in this place, as containing the principles on which the Governor General in Council judged it expedient, in the first instance, to resume from the landholders the privilege which they had been allowed to exercise, of levying market duties, and other imposts upon commerce, manufactures, and professions, within the limits of their respective estates; and afterwards, on finding that the articles of collection were so numerous, intricate, and open to abuse, as not to admit of reform and regulation, to abolish them altogether, with the following exceptions. 1. The government and Calcutta customs, which had been hitherto collected by the officers of government, under distinct regulations. 2. The duties levied on pilgrims at Gya, and other places of pilgrimage; which were also before received by the public officers. 3. The *abkarry*; or tax on spirituous liquors; the rules for collecting which, on the part of government, will be stated in the sequel. 4. The market duties levied in the gunges, hauts, and bazars, situated within the limits of Calcutta; which it was deemed advisable to continue, under difficulties attending any new impositions within the town; as well as from these duties being more within the means of regulation at the metropolis. 5. The collections which, though included under the general denomination of *sayer*, did not appear objectionable, and were therefore confirmed to the landholders; viz. rent paid for the use of land; or for houses, shops, or other buildings, erected thereon; or for orchards, pasture grounds, or fisheries. A compensation was, at the same time, made to the landholders, both those exempted from

Compensation
made to the
landholders, for
the loss of *sayer*.

the

the payment of revenue, and those who were liable to the public assessment, for their legal and ascertained profits from the sayer abolished, according to the principles stated in the following notification. "The imposition and collection of internal duties have from time immemorial been admitted to be the exclusive privilege of government, not exercisable by any subject without its express sanction; and consequently it has ever been a well known law of the country, that no person can establish a gunge, haat or bazar, without authority from the governing power. Grants from the sovereign or his representative, delegating this authority, as well as universal tradition, prove that this right was asserted by the Mahomedan government; and the orders of the Honorable Court of Directors, as well as repeated declarations and promulgations by the British administrations, demonstrate that this right was constantly asserted by the Company. It was however judged advisable to leave the exercise of this privilege to the landholders; government contenting themselves with imposing general regulations for the prevention of undue exactions, and occasionally interfering to modify or abolish particular imposts as they occurred, or were discovered. Experience having at length proved that prohibitory orders for preventing oppression were not attended with the desired effect, it was determined, on the 11th June 1790, to take from the landholders the power of imposing and collecting duties altogether; and to exercise this privilege immediately and exclusively on the part of government. The consequences of this measure were expected to be, the effectual abolition of many vexatious duties on articles of internal manufacture, and consumption, as well as on exports and imports; the suppression of many petty monopolies and exclusive privileges, which had been secretly continued to the great prejudice of the lower orders of the people; and, as the natural effects of the reform of these abuses, benefit to trade, and ease to the inhabitants of the country in general. A further consequence, expected from the exercise of this privilege, was a future opportunity of augmenting the public revenue; in case the exigencies of government should render

fits from the
taxer abolished,
on principles
stated in pream-
ble to Reg. 27,
1793.

render it indispensably necessary, without* increasing the assessment on the land. But this was a secondary expectation only; the primary objects intended were those first stated, the promotion of commerce, and the general relief of the inhabitants. In the adoption of the above arrangements the Governor General in Council had no intention to divest the landholders of any collections they had made, under the denomination of *sayer*, not in reality a duty; but a consideration for the use of ground, shops, or other buildings belonging to them. As however the rent of warehouses (*golahs*), and shops (*dokans*), had in general been received by the officers employed to collect the *gunge*, *haut*, and *bazar* duties, and had frequently been let in farm with them; and as the rent paid for orchards, pasture ground, and fisheries, had been some times included in the *sayer*, under the denomination of *phulkur*, *bunkur*, and *julkur*; the Governor General in Council thought it necessary to declare expressly, that it was by no means his intention to include in the resumption of the *sayer* then ordered, the monthly or annual rents paid for ground, or buildings erected thereon, of whatever description; or the *phulkur*, *bunkur*, and *julkur*; such rents being properly the private right of the proprietors; and in no respect a tax or duty on commodities, the exclusive right of government. The principles on which it was determined that a compensation should be made to the parties affected by the discontinuance of the privilege of collecting duties, were as follow. *Firstly*, It having never been lawful to exercise this privilege without the sanction of government, it followed, of course, that all instances of the exercise of it without such sanction were illegal usurpations; and the usurpers, so far from having any just claim to a compensation, might, without injustice, have been made answerable for the amount unlawfully received by them. As however the Company had limited their retrospection in similar cases to the period of their accession to the *dewanny*, this principle was adopted only with regard to collections commenced since that period. *Secondly*, Government having also always reserved to itself a power of abolishing all duties deemed

oppressive,

oppressive, it followed that all collections, made contrary to any prohibitory orders of government, were unauthorized exactions, for which no compensation was due to the parties who had benefited by them. *Thirdly*, The condition of particular persons reduced to distress, by the deprivation of the income they had received from duties, though unauthorized, being a separate consideration, unconnected with the question of right, was reserved for determination as cases might occur. *Fourthly*, The holders of lakheraje land, or land exempted from the payment of public revenue, who had received the sanction of government to the establishment of gunges, bazars, and haunts, on their lands, or in other words who had been authorized to exercise the privilege of collecting duties thereon, were deemed entitled to a full compensation for the resumption of such privilege, adequate to the annual profit they derived from it. *Fifthly*, The holders of malguzary land, or land assessed for the public revenue, who had been permitted to collect gunge, haunt, bazar, or other duties on their lands, were also considered entitled to a full compensation for the profits they were allowed to enjoy from such collections; and these profits having, by a general regulation, been limited to one-tenth of their neat receipts, an equivalent to this proportion was considered the compensation due to them. In pursuance of the principles above stated, the Governor General in Council prescribed such rules, adapted to existing circumstances, as he judged necessary for the immediate guidance of the collectors, and the Board of Revenue, in carrying his intentions into effect, in such mode as might secure the objects intended with the least possible injury to the individuals affected thereby. But on the collection of the sayer being committed to the officers of government, it was found that the exactions were so numerous, and complicated, and imposed on such impolitic principles, as to preclude the possibility of regulating them in such a manner as to render them productive to the state, and at the same time to prevent their operating as a burden on the internal commerce and industry of the country. It was in consequence determined, on the

28th July 1790, to abolish the *sayer* collections (with certain specified exceptions) throughout the three provinces, leaving it to future consideration what internal duties or taxes should be imposed in lieu of them."

Doubts entertained, at the time of issuing the order from the holders, of the justice and expediency of the measure.

But not a case to point of inequity, or of the abolition of the *sayer*. Remarks on justice or expediency.

It seems proper to remark that at the time of resuming the *sayer* collections from the landholders, and placing them in the hands of the officers of government, doubts were entertained of the justice and expediency of this measure; founded partly on the declared proprietary rights of the landholders; and partly on the labor, time, and expense, that might be required to superintend and control the details of these collections, with a due regard to the objects intended by the resumption.* But objections of the latter description were not applicable to the policy which dictated the subsequent abolition of the *sayer*; and with respect to the justice of the measure, it may be observed, that whether the theory or practice of the Mogul government be appealed to, it equally recognizes a power to abolish and prohibit any taxes, duties, or collections of whatever nature, found oppressive to the people; or injurious to the general interests of the country. The emperor *AKBER* is stated by his minister and biographer to have remitted a variety of vexatious taxes, "fifteen of which (including *hasil bazar*, or market duties) are enumerated in the *Ayeen Akbery*:† and *ÂLUMGEER*, the last emperor who maintained the full authority of the Mosulman government in Hindoostan, is said to have abolished no less than seventy articles of taxation by edict.‡ A tax on marriages, called *haldarce*, or *marócha*, and the *sayer chelunta*, or transit duties, collected at the zemindarry ghauts, and chokies, were also discontinued at an early period of the Company's administration; and with other forbidden exactions, have been since repeatedly prohibited, under

* See par. 79 to 83, of Mr. SHORE's minute recorded 18th September 1789; and printed in appendix No. 5, to his report of Select Committee, 28th July 1812.

† Translation of *Ayeen Akbery*, vol. 1, page 350.

‡ Mr. GRANT's *political survey of the Northern Circars*. Article *sair*, or *imposts*.

heavy penalties.* In a minute from Marquis CORNWALLIS (recorded 18th September 1789) he observed—"as to the question of right, I cannot conceive that any government in their senses would ever have delegated an authorized right to any of their subjects to impose arbitrary taxes on the internal commerce of the country. It certainly has been an abuse; that has crept in, either through the negligence of the Mogul governors, who were careless and ignorant of all matters of trade; or what is more probable, by the connivance of the Mosulman aumil, who tolerated the extortion of the zemindars, that he might again plunder them in his turn. But be that as it may. It has been too long established, or tolerated, to allow a just government to take it away without indemnifying the proprietors from loss; and I never heard that, in the most free state, if an individual possessed a right that was incompatible with the public welfare, the legislature made scruple of taking it from him, provided they gave him a fair equivalent."† In a further minute (recorded 3d February 1790) Lord CORNWALLIS added the following remarks. "To those who have adopted the idea, that the zemindars have no property in the soil, and that government is the actual land lord, and that the zemindars are officers of government removable at pleasure, the question regarding the right of the zemindars to collect the internal duties on commerce would appear unnecessary. The committing the charge of the land revenues to one officer, and the collection of the internal duties to another, would to them appear only a deviation from the practice of the Mogul government, and not an infringement of the rights of individuals. But what I have already said will be sufficient to show that these are not

Minute of Marquis Cornwallis on this subject; 18th September 1789.

Further minute of Lord Cornwallis recorded 3d February 1790.

* See proceedings of the President and Council of Fort William, on the five years settlement, 14th May 1772; printed in the fifth report of the committee of secrecy 1773. With the *amulnamah* to farmers, and instructions to the dewan of Nuddea, appendix No. 1 and 3, to that report. Also letter from the committee of circuit to the President and Council, dated 15th August 1772; with plan for the administration of justice, which accompanied it; printed in appendix No. 2, to the sixth report of the committee of secrecy 1773. And regulations for the revenue department, passed 8th June 1787. Art. L. II. printed in 3d volume of Sir E. COLLAROOK's Digest, page 260.

† His Lordship added, as a case in point, the instance of the late Duke of AINOÛL, who parted very unwillingly with the sovereignty of the Isle of Man.

the grounds upon which I have recommended the adoption of the measure. I admit the proprietary rights of the zemindars, and that they have hitherto held the collection of the internal duties; but this privilege appears to me so incompatible with the general prosperity of the country, that however it may be sanctioned by long usage, I conceive there are few who will not think us justifiable in resuming it. It is almost unnecessary to observe, how much the prosperity of this country depends upon the removal of all obstructions both to its internal and foreign commerce. It is from these resources only that it can supply the large proportions of its wealth which are annually drained from it both by the Company and by individuals. The rates by which the internal duties are levied, and the amount of them collected in each zemindary, have, as far as I have been able to trace, never been ascertained. Where the lands of the zemindars have been leased out to farmers, these duties have been collected by them. It is, I believe, generally allowed, that no individual in a state can possess an inherent right to levy a duty on goods or merchandize purchased or sold within the limits of his estate; and much less upon goods passing along the public roads which lead through it. This is a privilege which the sovereign power alone is entitled to exercise, and no where else can it be lodged with safety. Every unauthorized exaction levied on the goods of a merchant, and every detention of them in their progress through the country, is a great public injury. The importation of foreign commodities, and the exportation of our own, are alike obstructed; for accumulated exactions, by raising the price, diminish the consumption of the commodity; and the merchant is under the necessity either to give up his trade, or to go to other countries, in search of the same goods. It cannot be expected that a zemindar will be influenced by these considerations; and much less a temporary farmer, whose only object can be to exact from the cultivators of the soil, as well as from merchants and traders, as much as he can compel them to pay. The Court of Directors themselves appear to have been of this opinion, from the following paragraph

graph of their letter of the 10th April, 1771;—"As we have reason to believe that many bazars are held in the provinces without the authority of government, and which must be an infringement of its right, a great detriment to the public collection, and a burden and oppression on the inhabitants, you will take care that no bazars or gunges be kept up, but such as particularly belong to the government. But in such bazars and gunges, the duties are to be rated in such manner as their situations, and the flourishing state of the respective districts will admit." And in the same letter they observe, "Persuaded as we are that the internal traffic of Bengal has received further checks from the duties which are levied, and the exactions which are imposed, at petty chokies, we positively direct that no such chokies be suffered to continue, on any pretence whatever, to impede the course of commerce from one part of the province to the other. It is necessary, however, that the nine general chokies, which have been established for collecting the duties payable to the cir-car, should remain, and these only." The chokies stationed upon the banks of the rivers to collect duties on boats, on the part of the zemindars, were directed to be abolished, in consequence of the Company's orders; and adequate deductions were granted to the zemindars; but the duties levied at the hauts, gunges, and inland chokies, were ordered to be continued in the hands of the zemindars as formerly. The zemindars were also prohibited from collecting inland rahdarry duties, that is, duties upon goods not bought or sold within their zemindarries, but only passing through them. Notwithstanding this prohibition has been frequently repeated, our proceedings exhibit numerous instances of these rahdarry duties being levied by zemindars and farmers; and from opportunities which are afforded them, by having the collection of the authorized inland duties in their hands, I have every reason to believe that the practice is but too general. I understand that the collector of Nuddea has lately abolished a very considerable number of chokies, at which unauthorized duties were collected on the internal trade, by the officers of the zemindar,

in defiance of the repeated orders of government. If these interruptions to commerce are found to exist in a district almost in the neighbourhood of Calcutta, and under a vigilant collector, it may be supposed that, in the more inland parts of the country, and under collectors less active, the evil prevails to a greater extent. The inefficacy of the power of government to restrain zemindars from these oppressive exactions, whilst they are allowed to possess the right of levying taxes of any kind upon commerce, has been long experienced in many shapes. It is only by the total resumption of this right that such abuses can be prevented; and as the general interests of the community require that a regular system of taxation upon the internal trade of the country should be established, we are justified by the constant practice of our own country, and that of other nations, in demanding from individuals, upon granting them a full compensation for their present value, a surrender of privileges which counteract so beneficial a measure. Further benefits are to be derived from this arrangement, when the amount of the internal duties, the rates by which they are levied, and the articles subject to the payment of them, are ascertained. Some may be increased, and others diminished, or struck off, according as may be judged advisable; and in a course of time, as commerce and wealth increase, such regulations may be made in the duties on the internal trade, and the foreign imports and exports, as will afford a large addition to the income of the public, whenever its necessities may require it, without discouraging trade or manufactures, or imposing any additional rent on the lands."

THE Court of Directors concurred in the sentiments of Marquis CORNWALLIS; and in their revenue general letter of 19th September 1792 expressed their approbation of the resumption, and ultimate abolition of the sayer, in the following terms. "We see, not without surprize, some of the most intelligent of our servants regarding the imposition of internal taxes, duties, or customs, as a branch of the proprietary rights of zemindars: and observe

Sentiments of
the Court of
Directors in
concurrence
with those of
Marquis CORN-
WALLIS.

observe in this instance the danger of adopting into practice rigid systematical deductions from premises in themselves imperfectly defined. Upon general principles, and especially the principles of a despotic government, we can conceive nothing more incongruous and extraordinary than the inherence of such a legislative power in a great number of individual subjects; and we find that what is thus at variance with probability, is contradicted in fact by immemorial usage; which exhibits the privilege of imposing internal duties as exclusively belonging to the sovereign; and so constantly exercised, that no gunge, haut, or bazar, could be established without the authority of the governing power. In agreement with this practise, the Company did, twenty years ago, interpose, as their administrations have since done, in various ways, to regulate or abolish oppressive establishments and taxes of that nature. No right of Government therefore seems to us less disputable than that of separating them from the land tenures of the country, and modifying them at pleasure; making suitable allowances for the rents occurring from such as were established under the sanction of Government. We approve therefore and applaud the assumption of all duties and taxes whatever, with the power of levying them, from the landholder; and having seen, from the details in your proceedings, the enormous extent and complication of the abuses and oppressions committed under such names, with the great difficulty of eradicating evils become inveterate, even under the immediate administration of the officers of government, we are of opinion that, since it was deemed impracticable to establish instantly a proper discrimination, and to collect only what might reasonably be exacted upon certain articles of internal consumption, since the advantage derived by the state was comparatively small, and the injuries suffered by the trade and the people of the country grievous, you acted wisely, as well as liberally, in proceeding to the entire abolition of these instruments of internal oppression." The court at the same time added—"We think however, in correspondence with the idea you appear to entertain, that this should be considered as a suspension, rather than

Expectation at the same time expressed by the court, that the question of levying internal duties, un-

the rules to
ward against
abuse, may be
enforced at a
future period.

suggestion that
this should be
made known
to the people.

Observed ac-
cordingly in
art. 7, of pro-
clamation dat-
ed 22d March
1793.

Reg. 2, 1793,
Section 35.
Allowances to
cauzies and ca-
noons, and
public pen-
sions, hereto-
fore paid by
the landholders
to be added to
their jumma,
and hereafter
paid by the col-
lector.

than an extinction of the financial principle of internal duty; that when the whole business of the decennial settlement is in a due train of execution, and the time, in other respects, suitable, government may review this object, with the design of ascertaining to what extent, in what form, and under what rules, it may safely be again made an article of revenue; without the danger of such abuses, against the state and against its subjects, as have hitherto subsisted in it. We think likewise that this contingency of its resumption should be understood by the people, that they may the more easily acquiesce in subsequent measures to that end." The last suggestion was duly attended to, in the second clause of the seventh article of the proclamation issued on the 22d March 1793; which has been already stated at length: and the sequel will shew what taxes and duties have been established since the abolition of the sayer, under specific rules for the collection of them.*

ANOTHER rule established for the guidance of the revenue officers in fixing the land assessment, at the period of the decennial settlement was, that "the allowances of the cauzies and canoongoes, heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the jumma, and in future paid by the collectors of the revenue of the several zillahs, on the part of government,

* By an official report, which I prepared as secretary to the Board of Revenue, in 1791, the annual neat produce of the sayer abolished, in mehals subject to the payment of revenue, throughout the whole of the districts of Bengal, Bahar, and Orissa, was somewhat less than ten lacks of rupees. The lakheraj sayer had not then been ascertained; but was computed not to exceed a lack and a half of rupees. The compensations made to the landholders, on depriving them of this part of their established income, as well as the immediate loss to government from relinquishing a part of its actual revenues, have been since abundantly supplied by the taxes on spirituous liquors, and intoxicating drugs; and by other internal duties now collected under prescribed rules in lieu of the sayer abolished. But independently of this result I might confidently repeat the question, which I took the liberty of putting in the report above noticed "who can doubt the policy of relinquishing, or paying from the annual revenue of these provinces, so small a sum as about eleven lacks of rupees, to divest the landholders of the indefinite power of taxation exercised by them? comprehending in practice, the imposition of duties on almost every article of manufacture and commerce, as well as on every profession; besides innumerable exactions of a more exceptionable nature; and productive, or liable to be productive, of universal oppression, and vexation."

under the rules and restrictions laid down for their guidance with regard to such payments, in the resolutions passed by the Governor General in Council, on the 10th June 1791, and re-enacted with modifications by Regulation 24, 1793." The provisions of this regulation will be hereafter specified. Suffice it to mention here, that one object of them is to secure the regular payment of public pensions: but there was also an evident reason of policy for transferring to the public treasury, at the time of concluding a permanent settlement with the landholders, allowances and pensions heretofore charged upon the revenue; and payable by the latter; that a temporary expense might not become, in effect, a perpetual reduction of assessment:

THE jumma was "also to be fixed exclusive and independent of all existing lakheraj lands; whether exempted from the kheráj (or public revenue) with or without due authority." This provision arose from the very nature of lakheraj tenures, which, during their continuance, are not liable to the land assessment; and therefore could not be considered a fund for it. As however some of the grants for such tenures were for life only; and others might on examination be found invalid; or the lands claimed as exempt from taxation might be held without any grant; it was necessary, at the time of fixing the tax upon lands then liable to assessment, to declare it exclusive of the assets of lands not included, but which might become subject to assessment at a future period. This was also formally declared in the third clause of the seventh article of the proclamation before cited; with an express intimation that the future assessment which should be imposed on lands held exempt from revenue without a valid title, would belong exclusively to government.

R. 8, 1793.
Section 36.
Assessment to be fixed exclusive of all existing lakheraj lands.

It was at the same time expedient that all lands fairly answerable for the fixed assessment, and included in the estimate of assets upon which it was adjusted, should be declared a part of the malgoozary or revenue lands assessed; and in particular

Section 38.
Provision respecting malikdars, kharan lands of revenue and other landholders in the province of Benares.

that the malikanah lands, which had been held free of assessment by many of the zemindars, and other landholders, in the province of Behar, for their subsistence, when deprived of the management of their estates, should be re-annexed to the malgoozary lands, from which they were separated, on a settlement being made with the proprietors for the whole of them; as far as circumstances might admit. It was therefore provided that “where the zemindars or other actual proprietors of land in Behar have resigned, or have been deprived of the management of their lands, retaining possession of a tithe as malikanah, the latter is to be re-annexed; and the zemindars, or other actual proprietors, are to be required to engage for the whole of the estates, including the malikanah lands; unless such lands be held as malikanah under grants made or confirmed by the Governor General in Council, or supreme authority of the country for the time being; and have been sold, or mortgaged and given in possession to the mortgagee, in which case they are to be exempted from this rule. Grants for malikanah lands, not made or confirmed by the supreme authority of the country, are declared invalid by the regulations passed on the 8th August 1788. If the collectors however should be of opinion, that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.” On the same principle it was further provided that “the nankar, khomar, neejjoot, and other private lands, appropriated by the zemindars, independent talookdars, and other actual proprietors of land, in Bengal and Orissa, to the subsistence of themselves and families, shall be also annexed to the malgoozary lands; and the ten years jumma fixed upon the whole; under the following modification—that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove to the satisfaction of the Board of Revenue, that they held them under a similar tenure, previous to the 12th August 1765, the date

Section 39
Similar provision
respecting
nankar, khomar,
neejjoot, and other
private lands of
zemindars and
other landholders
in Bengal and
Orissa.

date of the grant of the dewanny to the Company, and have hitherto been permitted to keep possession of them whenever their zemindaries or estates have been held khaus or let in farm, but not otherwise. In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors." The nankar and other private lands referred to in this rule were never considered to be complete lakheraj tenures, legally or actually exempted from the public assessment. They formed a part of the estate of the zemindar, or other landholder possessing them, from which he maintained himself and family, partly or entirely, whether he engaged for the public revenue, or not; though he was not always left in possession of them, when he declined the settlement, and his estate was let in farm, or held khas. The consolidation of such lands, as part of the malgoozary assets, now generally ordered with respect to the private lands of zemindars, independent talookdars, and other landholders paying their revenue immediately to government, was, at the same time, required "to be made in the talooks continued under the proprietors on whom they had hitherto been dependent; not however with a view of increasing the rents of the talookdars: but in order to make the whole of the lands composing their talooks, answerable for their proportion of the public assessment." It was likewise directed, that the whole of the *chakeran* lands, or lands held by public officers and private servants in lieu of wages, in each province, should "be annexed to the malgoozary lands; and declared responsible for the public revenue assessed on the zemindaries, independent talooks, or other estates, in which they are included; in common with all other malgoozary lands therein." This annexation, however, made for the security of the revenue, does not preclude the continued appropriation of land in lieu of wages, whenever this mode of payment for service may be preferred, and agreed to between the parties interested.*

Section 40.
Consolidation
of malgoozary
and private
lands exten-
sive of dependent
talooks.

Section 41.
Chakeran lands
also annexed to
the malgoozary,
and declared
responsible for
the public reve-
nue.

ALL

* Pykes, chokeedars, and other village watchmen, maintained by the landholders

Section 4a.
Engagements
for jumma to be
in sicca rupees;
with provisional
clause till a su-
fficient number
can be circulated.

ALL engagements for the jumma, whether executed by landholders or farmers, were required to be in sicca rupees; but as there was not, at the time of forming the decennial settlement, a sufficiency of this coinage in circulation, it was ordered that a clause should be inserted, "obliging them to pay to government siccas, or the same species of rupees as they may receive from their under farmers or ryots, at the bazar rates of batta, until a sufficient number of sicca rupees can be circulated to make these the only legal tender. The collectors are to insert in their treasury accounts, the rates of batta at which all rupees, not siccas, may be received by them." It is sufficient to remark upon this rule, that the requisition of engagements for sicca rupees was not novel; the revenue being previously engaged for in that coin; though various rupees, of different value and denomination, were necessarily received into the public treasuries. The evils resulting from this state of the coinage in general circulation, and the measures adopted by government to remedy them, as well as to supply, without delay, a sufficient number of standard sicca rupees, will be stated at large in the succeeding section.

Difference between land tax of India and of other countries, and consequent option given to landholder to engage, or not,

X IN countries where private and public rights have been accurately defined, and established upon just principles, where taxes are considered to be "a portion which each subject contributes of his property in order to secure the remainder,"* and where the land-

and farmers, as well as some other descriptions of inferior servants employed in the management of landed property, are still usually paid, in part, by an allowance of land, held free of rent or at a small quit rent, instead of wages. *Ghatwals* tenures held at a low rent by the *Ghatwals*, or guards of passes, and other appropriations of land for police establishments, are also of this nature. But all *chakran* lands, appertaining to a zemindary, talook, or other malgoolary estate, being considered to form part of the estate, and included in the assessment of it, they pass, of course, as unencumbered, with every transfer of the estate; and are in general at the disposal of the proprietor of the latter, subject to the fixed assessment upon the estate; unless specially provided for in adjusting the jumma, and appropriated to the expense of a police establishment; in which case they fall within the fourth clause of Section 8, Regulation 1, 1793, before cited in page 199.

* BLACKSTONE, book 1. ch. 8. on the King's revenue. See also what he says on the English land-tax, in the same chapter; and a more particular description of this tax, its origin, and mode of assessment, in SINGLAIN'S history of the public revenue. Part III. chap. IV.

tax is so moderate as to make it impossible that the proprietor of the land should desire to relinquish the management of his estate, with a view to be exonerated from responsibility for the tax imposed upon it, there can be no occasion for any personal assent or engagement on the part of individuals, to pay their portion of the general assessment; which is levied, when due, from the actual possessor of the land. But in India where the land-revenue has borne a proportion, so large as nine-tenths, to the computed neat receipts of the zemindar or other superior landholder, and where consequently drought, inundation, or other calamity of season, might deprive him of the means of payment from the yearly neat produce of his estate, it has been customary to give the landholders an option of engaging for the assessment of their lands; or to receive a subsistence in land or money, and leave their estates to the management of a public officer, or be let in farm, at the discretion of government. This usage commenced before the Company's administration; and had been since continued to the period of forming the decennial settlement. The following rules were therefore prescribed for the guidance of the collectors and information of the landholders, in proposing and accepting or declining the terms of this settlement. 1. "In the event of any proprietor's declining to engage for the settlement of his lands at the jumma proposed to him, the collector is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue. That Board is to determine the proper assessment, after making such further enquiries as they may think necessary; and the objecting proprietor is to be required to engage for such assessment without further delay; and, in the event of his refusal, which is to be given in writing, his lands are to be let in farm, or held khaus, as the Board of Revenue may in each instance think most expedient." 2. "Proprietors who may finally decline engaging for the jumma proposed to them, and whose lands may consequently be let in farm, or held khaus, are to receive malikanah, (an allowance in consideration of their proprietary rights) at the rate of ten per cent on the sudder jumma

for the assessment of their estates.

Rules prescribed in pursuance of principles &c. &c.

Reg. 8, 1793. Section 43. Process to be observed when the landholders decline engaging for the jumma proposed to them.

Section 44. Proprietors who may finally refuse to engage

for the jumma required from them are to receive malikanah.

India, what pro-
portion.

Sections 45, 46.
Rule respecting
the payment of
the malikanah
when the lands
are let in farm.

How the collec-
tors are to en-
force payment
of the malika-
nah;

which is g-
aranteed by gov-
ernment.

Section 47.
How to be paid
when the lands
are held khas.

How far the
permanent land
revenue of Ben-
gal, Behar, and
Orissa, has
been engaged
for by the land-
holders.

of their lands, if let in farm; or at the same rate on the neat collections from their lands, if held khas, viz. on the neat amount realized by government after defraying the malikanah, as well as all other charges. Out of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto." 3. "When the lands are let in farm, the farmer is to engage to pay the ten per cent malikanah to the proprietor of the lands farmed by him, in addition to the jumma payable by him to government; and to pay this malikanah monthly, according to the kistbundy fixed for the sudder jumma, with an exception to any case in which it may have been otherwise stipulated with the farmers. The collectors are to enforce payment of the malikanah from the farmers by the same process as is prescribed for enforcing payment of arrears of the public revenue, if they shall at any time neglect to pay the instalment due from them; and government are to be considered as guarantees for the full payment of the fixed allowance to the several excluded proprietors." 4. "In the event of the lands being held khas, on the refusal of the proprietor to engage for the settlement of them, the malikanah, calculated as above specified, is to be paid monthly from the treasuries of the collectors; and it shall be paid entirely in money, instead of half in cash, and half in paper as formerly." It is satisfactory to add, upon these rules for the settlement of the three provinces, that few of the landholders, who were at liberty to engage for the assessment of their estates, declined it on the terms offered to them; and that of those who did, many have since engaged, under the invitation held out to them in the fourth article of the proclamation issued in March 1793.*

THE

* The official accounts of 1812-13, state the jumma of mehals held khas, or let in farm, in the provinces of Bengal, Behar, and Orissa, (exclusive of Calcutta,) as follows. Jumma of mehals held khas, Sicca Rupees 1,45,254 5 13; and of mehals let in farm, Rupees 8,51,628 12 16. The records of the Board of Revenue, at the close of the year 1813-14, specify Sa. Rs. 1,55,648, as the Jumma of the Khas Mehals, (chiefly the property of Government;) and Sa. Rs. 9,50,065, as the Jumma of the farmed Mehals. But the latter sum includes 3,63,876, the assessment of Estates of minors

THE special orders passed by Government for the guidance of the collectors and Board of Revenue, in fixing the amount of the assessment in each province, according to local circumstances, and the different degrees of information which had been obtained from the mode of settlement and measures adopted in former years, were to the following effect.

Special orders for determining the assessment in each province.

IN Bengal, where the settlement had usually been made with the zemindars, and excepting the separated talooks, the accounts of revenue paid in past years were in general sufficient to form the

Reg. 8. 1793.
§ 68.
General standard in Bengal, for lands which had

minors and other disqualified landholders, under the custody of the Court of wards; and both statements include, besides the estates of proprietors who have preferred receiving a fixed amount as *malikanah*, to the contingency of profit or loss arising from an engagement for the land revenue, the *Khas* talooks in *zillah* Moorshedabad, and lands in other districts, the immediate property of Government; rated in the records of the Board of Revenue at nearly three lacks of rupees. Certain *Mocurrery* or permanent farms, which had been granted by the former Government of the country, or by the British Government before the period of the decennial settlement, and which, by the rules for that settlement, were "to be continued in force during the lives of the lessees" are also included in the *jumma* of the farmed *mehals*. Two *mocurrery* farms of this description in the district of Behar, viz. *Tilharch*, farmed to Meer Mohummud Bâkui Khan, and *Râjgeer Amurthoo*, farmed to Mohummud Yehia Khan, are assessed, after deduction for the *sayer* abolished, the former at *Sicca* Rupees 72,563 9; the latter at Rupees 26,002. The same district comprises other *mocurrery* farms, to a still larger amount, which were constituted in the year 1788, or *Fusly* year 1196, the year preceding the decennial settlement of the residue of the Behar province; and which, it is material to remark, are excepted from some of the general rules for that settlement; particularly that which declared *mocurrery* leases to persons not the actual proprietors of the land included in such leases, though granted or confirmed by the Supreme Government, to be for the lives of the lessees only; and directed that "on their death, the settlement is to be made with the actual proprietors of the soil." This rule was originally passed by the Governor General in Council on the 16th July 1790; and was subsequently enacted in the 15th Article of the amended rules for the decennial settlement, printed and published on the 23d November 1791; and re-enacted in Section 16, Reg. 8. 1793. But previously to any of the rules and orders for the decennial settlement, in the year 1788, the collector of *zillah* Behar, (Mr. THOMAS LAW) proposed, and subject to the confirmation of the Governor General in Council and Court of Directors carried into effect, within several *pargunnahs* under his superintendence, a *mocurrery* plan of settlement, the principles of which differed, in some essential points, from that afterwards adopted for the rest of the province of Behar, and the provinces of Bengal and Orissa. Mr. LAW having published his correspondence with the Board of Revenue on the subject of this settlement, together with an abstract of his propositions, extracted from some remarks which, at the desire of Lord CORNWALLIS, I had the honor of submitting for his Lordship's consideration, when this plan of settlement was brought forward, it is unnecessary to detail the principles, or to discuss the policy of it in this place. It will be sufficient to refer to Mr. SHORE's minute of the 8th December 1789, printed in the

Report and
income imme-
diately to go-
vernment.

the basis of an equitable assessment for future years, on the principles of moderation and security prescribed by the Court of Directors, it was ordered that "the jumma of the preceding year (1196 B. S.) compared with the accounts and information supplied

Appendix to the Fifth Report of the Select Committee of the House of Common, 28th July 1812; and to subjoin the following "statement of the mocurrery pergunnahs settled by Mr. Law in 1196," which accompanied a Report from Mr. D. VANDERHEYDEN Commissioner, to the Board of Revenue, under date the 5th November 1793.

PERGUNNAHS.	Villages settled with proprietors.	Villages settled with farmers.	Assessment of villages settled with proprietors.	Assessment of villages settled with farmers.
PELICH,	85	37	67,604 8 0	11,425 0 0
MALDAH,	8	80	2,717 0 0	25,341 0 0
BEHAR,	32	198	9,350 5 0	51,618 10 15
NURHUT,	76	152	15,209 8 15	34,588 9 0
SAMOY,	10	90	4,800 0 0	34,259 15 10
MAHER,	23	159	2,022 6 10	16,382 5 5
JERRA,	4	58	214 0 0	9,017 0 0
PUCHROUKY,	2	55	210 0 0	8,075 0 0
ROE,	0	62	0 0 0	13,880 0 0
TOTAL	249	894	1,02,127 12 5	2,04,617 8 10

It is further noticed in the official statement referred to, that 463 villages, of the 894 settled with farmers, composed the forfeited estate of ACHAL ALEE KHAN, "which were forfeited in consequence of particular circumstances attending a murder perpetrated, some years since, in his zemindary, upon the body of Mr. HODGKISS;" and Mr. VANDERHEYDEN adds, in his letter to the Board of Revenue, "it will be satisfactory to them to know, as an argument of the improving state of the country, and increasing value of landed property, that several of the proprietors (of the other villages settled with farmers in 1788.) have obtained possession of their estates by purchase from the original mocurrerydars, since the conclusion of the mocurrery settlement." The Governor General in Council, who, on the 3d December 1788, had authorized the Board of Revenue "to confirm from year to year the conditional pottahs granted by Mr. Law, in pergunnahs Nurhutsamoy, &c. till such time as the orders of government should be received for their being cancelled or finally ratified," having added, in a letter to the Board of Revenue, dated 14th October 1789, "our orders respecting the settlement of these pergunnahs, are not to be superseded by the late resolutions for the general settlement of Behar, but are to remain in force, until the pleasure of the Court of Directors regarding them shall be known; should the Court of Directors think proper to direct these engagements to be cancelled, the mocurrerydars are to be allowed the option of holding their lands for ten years, commencing from the year 1197 Fusly, at the jumma for which they have now engaged;" and it not being known that any specific orders on the subject of the mocurrery settlement in question had been received from the Court of Directors, Mr. VANDERHEYDEN, on consideration of all the circumstances which had attended the exclusion of so many proprietors of land in the formation of this settlement, and the conditional nature of the engagements entered into with the farmers, suggested the expediency of declaring "that the mocurrery leases granted to persons not proprietors should only continue in force for the remaining period of the decennial settlement;" and the Board of Revenue concurring with him, they submitted to government on the 1st

April

plied by the collectors, and the recommendation of the Board of Revenue founded thereon, should be the standard," subject to the following considerations. 1. "If the Board of Revenue shall have reason to believe, that the accounts furnished of any particular district or districts are materially defective; that more accurate

Section 69.
In what cases
the decennial
settlement to be
postponed.

April 1794, a proposition to that effect. The Governor General in Council however was, at this time, in possession of the sentiments of the Court of Directors communicated in their Revenue general letter of the 19th September 1792, in answer to the communications which had been made to them, on different dates, relative to the general decennial settlement, and the mocurrery settlement previously introduced in part of zillah Behar; on which they observed as follows: "We find that before the decennial settlement could be generally made, Mr. LAW had, in correspondence with the principle of that settlement, brought forward a mocurrery plan for some pergunnahs in Behar. To this plan we have particularly attended. We think that it went upon just views; and manifested an activity, knowledge, and humanity, that reflected very great credit on the gentleman who proposed it. It was in effect an acceleration of the decennial settlement in his district, and a meritorious exhibition in practice of our own idea of letting the lands upon a permanent assessment. His pursuit of a principle right and laudable in itself seems to have admitted into the detail of his proposals some articles not perfectly accordant with that principle; but here also the considerate judgment of Mr. SHORE appears to have been of use. The mocurrery plan, according to our apprehension, afterwards, merged in the general decennial settlement; that is, was extended to the term of ten years with the contingency of becoming perpetual. If this was not understood, we now give it as our opinion that such should be the footing on which the mocurrery leases granted by Mr. LAW should be placed; and deciding thus, we think it unnecessary to go into a more particular review of the plan, or the discussions which it produced; but as it brought into early view the principal means and effects of a fixed taxation, it is on that account, as well as from the experiment, worthy of our commendation and applause. In reply to the above letter, the Governor General in Council addressed the Court of Directors, under date the 6th March 1793, to the following effect:—"We have not made any alteration in the mocurrery settlement concluded by Mr. LAW in the four pergunnahs in the collectorship of Behar proper, alluded to in your letter; excepting that the abolition of the sayer or internal duties, and the regulations which have been passed respecting the rights of the immediate cultivators of the soil, and other points connected with the general plan of settlement, have been extended to the proprietors and possessors of these lands, in common with the other landholders and ryots throughout the country. We shall announce to the holders of the lands in these pergunnahs that you have been pleased to declare their tenures perpetual, provided they continue to discharge the stipulated revenue; and we doubt not that this declaration will animate them to persevere in the exertions which they have made to bring their lands into a flourishing state of cultivation, under the discouraging circumstance of three successive seasons of drought, in a part of the country in which the soil is in general dry and unproductive. We are satisfied indeed that nothing but the confidence of having their tenures confirmed in perpetuity, and the credit which they derived from the possession of a property expected to be so valuable; would have induced or enabled them to encounter so many present difficulties from the mere prospect of future and distant advantage." The foregoing letter having been acknowledged by the Court of Directors on the 3d April 1794, in general terms of approbation, and without any dissent from the construction given to the court's orders of 19th September 1792, that construction appears to have been considered final; and although no

Section 20.
No abatement
of jumma to be
allowed with-

accurate information of their actual produce is necessary; and that it can be procured without having recourse to hustaboods and measurements, which have been prohibited, the decennial settlement of such district is to be postponed." 2. "No abatement, from the jumma of the preceding year is to be allowed without

express orders were passed on the reference to government, founded on Mr. VANDERHEYDEN's report, in April 1794, yet when the Board of Revenue again submitted the subject of that reference, on the 27th August 1799, with a proposed "re-settlement of the mohauls in the district of Behar, which were heretofore disposed of under a mocurrery tenure, by Mr. Law," the Vice President in Council, on the 5th September 1799, passed an ultimate decision upon the question, in the following terms:—"Having before explained the nature of the tenure of the mocurrerydars in Behar, in our letter of the 7th November 1794, we are surprized that you should again submit to us propositions, the object of which is the subversion of these tenures, although it is no longer in the power of government to alter the nature of them where the parties have fulfilled their engagements. The revival of questions regarding the rights of individuals, so long since fixed and solemnly confirmed, must necessarily excite apprehensions in their minds as to the security of those rights; and affect materially the value of them. The tenures of the mocurrerydars who have performed their engagements are perpetual; subject to the stipulations in their cabbooleents; and are to descend accordingly to their heirs. In cases in which the mocurrerydars have not performed their engagements, and in which government are at liberty to make a new settlement of the lauds, we shall have no objection to giving a preference to the former proprietors. This indulgence however is not meant to be extended to AMBAL ALF KHAN, as we should deem it highly impolitic to restore him to any part of his forfeited estate. In cases in which it may be necessary to make a new settlement of any part of the lands included in these mocurrery tenures, with persons not being the proprietors, we direct that the new leases be granted on the same terms as those which are still in force." These leases, (as translated from the Persian form of pottah by the collector who granted them) were as follows:

"Whereas the village _____, in pergunnah _____, containing _____ begas, has been granted _____ in farm, from the commencement of the year 1196 Fussily, at the jumma of _____ rupees, exclusive of gunge duties; he must therefore pay up the revenue of the aforesaid village, settled at the above amount, year by year, without increase or diminution, agreeable to his cabbooleent and account kistbundy. If any one establishes his claim to the zemindarry of the said village, he will annually pay to him and his heirs malikaneh, at the rate of ten rupees per cent, on the jumma aforesaid, over and above the rent of government. If at any time expenses are incurred by government for protecting the country, and other accounts, he will agree to the raising of taxes, in proportion to the mocurrery jumma, for paying off those expences. If in the neighbourhood of the said village any disputes arise respecting its boundaries and limits, and the extent is lessened by a decree of the adawlut, he is not to claim any deduction; but be held responsible for all such charges of law suits, and litigations, as well as losses of season, and expenses of cultivation. Government has nothing to do with these circumstances. The above rent is stipulated for the village, and is recoverable from him, or his heirs, or by the sale thereof. Whatever engagements, in money or kind, are mutually entered into at the beginning of the year, with the satisfaction of the ryots, he will adjust without any abwabs or cesses, and will collect according to the terms which are settled, without any increase thereon. He will faithfully account with

without the special sanction of the Governor General in Council."

3. "Any occasional diminution of the jumma, which it may be necessary to allow on account of casualties of season, is to be restored by a russud, or progressive increase; but no russud shall be established to extend beyond the third year of the settlement,

but the sanction
of Government.
Section 71.
Rule for a pro-
gressive increase
of assessment in
certain cases.

with government for all uninheritable property, of persons dying and flying from the country; and give up all right thereto. He will pay on his own account for raising embankments, and cutting water courses, at the aforesaid village, or jointly with other persons at another place, when it is their mutual interest, without excuses. If the Honorable Company in England, or Governor General in Council, approve of perpetuating this moccerry lease to him and his heirs, a moccerry sunnud shall be granted, and authenticated with the Company's seal, and signed by the Governor General in Council; but in case of their not confirming it, it is hereby declared, that the engagement is made for one year only; and after that term is of no validity whatever."

The letter from the Governor General in Council to the Board of Revenue, under date the 7th November 1794, which is referred to in that of 5th September 1799, above quoted, as having already explained the nature of the tenure of the moccerrydars, was written in answer to a reference from the Board of Revenue, made in consequence of a report from the collector of Behar, that several villages in the forfeited estate of AKBAL ALY KHAL, had been disposed of privately by the moccerrydars; but that it was not specified in the public registers "whether the proprietary right, or only the moccerry lease, had been transferred to the purchasers." The declaration of government respecting such transfers was, "The nature of the moccerry tenures appears from the terms of the cubbooleets; and the holders have an undoubted right to transfer them to whomsoever they may think proper." The cubbooleet, or agreement, of the moccerry leaseholders being an exact counterpart of the pottah above specified, it is unnecessary to exhibit it; and I will only further subjoin the following letter addressed by Mr. LAW to the Board of Revenue on the 6th May 1789. "Though the moccerry plan I had the honor to submit to you bestows an option of alternatives, both peculiarly advantageous to a class of subjects heretofore deprived almost of the shadow of their rights, yet perhaps the perpetual exclusion of those zemindars who reject the quit-rent from doubt and inconsiderateness may appear rather hard. With a thoughtful solicitude therefore to benefit them if possible still further, I am induced to suggest a regulation, that the moccerrydar be required to give a preference of purchase, by one month's notice, to the person receiving maliconnah, previous to disposal of his quit-rent estate; and if this be rejected, it should forever limit the zemindar's title to the fixed one tenth. It further occurs to me, that should the possessor of a zemindarry receive a moccerry, whilst another's claim for the estate is pending in the Dewanny Adawlut, and if the prosecutor obtain judgment, the Court should award to him the property in the soil and the moccerry also, as the incumbent obtained that tenure in virtue of his temporary occupancy. How far the proposed condition of preference to the zemindar may depreciate the value of such moccerry, by clogging them with a clause productive of possible litigation, may perhaps merit some consideration; although in all probability; but very few indeed will refuse the quit-rent; and although the circumstance can never again occur, yet the idea of an alleviation having presented itself, I could not forbear to communicate it." The regulation suggested by Mr. LAW, for a preference to the excluded landholders, in the purchase of the moccerry tenure of their respective estates, does not appear to have been enacted; perhaps under the consideration noticed at the conclusion of the collector's letter. But what is stated by him, in explanation of a moccerry lease to the person in possession of a contested estate, in the event of the right of property,

Settlement, except in the separated talooks, and other petty meahals, in which the Board of Revenue may allow a further extension of the rissud, if it shall appear to them expedient."

Section 72.
Settlement to be made, as far as possible, in one neat sum free of charges.

4. "The settlement is to be made, as far as possible, in one neat sum, free from any charges of moshaira, zemindary amlah, poolbundy, cutcherry charges, or others of a similar nature; it being intended that all charges incidental to the receipt of the rents of the lands, and independent of the allowances of the officers of government, and expences attending the collection of the public revenue, shall be defrayed by the proprietors from the produce of their lands."

Section 73.
Allowances to families of landholders, as far as possible, to be abolished.

5. "In every possible case, all separate allowances to the families and connections of the proprietors of land are to be abolished; and the provision for their maintenance is to devolve upon the proprietors."

Section 74.
Pensions and Allowances continued by government, to be paid by collectors.

6. "With respect to any of the existing established zemindarry charges, such as pensions, charitable or other allowances, which it may be thought proper to continue, they shall be paid by the collectors; and

Proviso.

the proprietors and farmers of land are to have no concern in them, unless, for special reasons of convenience, it should be deemed more expedient, in any instance, to entrust the proprietors, or farmers of land, with the disbursement of them." The standard abovementioned not being applicable to the separated talooks, which had not hitherto paid any jumma immediately to government, it was directed with regard to these, if the jumma heretofore paid by them to the zemindars, "shall clearly appear to have been fixed below the general rate of assessment of the pergunnah in which they are situated, the assessment is to be regulated, so as to leave to the proprietors a provision for themselves and families, equal to about ten per cent

Section 75.
Rule of assessment for separated talooks

property in the estate being subsequently adjudged to another claimant, and which corresponds with the general rule prescribed for the settlement of disputed estates in Section 30, Regulation 8, 1793, may be of use in enabling the courts of judicature to pass an equitable decision upon claims connected with the moccurrey tenures referred to. The different opinions entertained on the subject of these tenures, from there being so express provision respecting them in the regulations, and the uncertainty whether such of them as had been granted to persons not proprietors of the land, were meant to be included in the rule for the decennial settlement, re-enacted in Section 16, Regulation 8, 1793, have induced me to detail so much, on a question of intricacy and considerable importance.

on the amount of their contributions to government; including the produce of their nankar, or other private lands, to be annexed to the malgoozary lands." This rule was also to be applied to any instances of zemindaries, or other estates, before separately assessed, the actual produce of which might have been ascertained by local investigation. But an exception was added in favor of "all separated talooks, as well as all lands heretofore paying revenue immediately to government, which had been held at a fixed jumma during the last twelve years;" and the settlement was ordered "to be concluded with the proprietors of such talooks and lands at the jumma hitherto paid by them, subject to such deduction, as might be found equitable on account of the sayer resumed or abolished." It was further notified that if, owing to any peculiar circumstances, a larger provision than the proportion above stated should be deemed necessary for the landholders and their families, when the assessment might be fixed on the ascertained produce of their lands; particularly in small zemindaries or talooks, wherein ten per cent on the jumma would be of inconsiderable amount; the Governor General in Council would take the same into consideration. It is unnecessary to add some detailed instructions to the collectors how to proceed in adjusting the jumma as directed, clear of charges and allowances; but it may be observed that "every circumstance influencing the regulation of the jumma was to be minutely recorded; to prevent any future claims, on the part of the proprietors, or farmers, for lowering the amount."

And for other lands, the actual produce of which had been ascertained.

Section 76.
Exception to above rule, in favor of all lands which had been held at a fixed jumma for twelve years.

Section 77.
Special provision for allowing more than ten per cent to landholders, in fixing their assessment, when deemed necessary.

Sections 78, 79, 80.
Detailed instruction for adjusting the jumma, as directed.

Section 81.
Every circumstance influencing the jumma to be recorded.

State of Behar province, and past usage of sudder and most fertile settlements as well as division of the produce with the cultivators; when money-rents were not engaged for.

In the province of Behar, where the *milkeets*, or landed estates, were more sub-divided and numerous, than in Bengal, no general settlement, since the Company's acquisition of the dewanny, had been concluded on the part of government, with the zemindars and other proprietors.* Excepting some of the principal landholders, with whom occasional settlements were made, not only for their own lands, but for those of inferior zemindars and

* Vide Mr. SHORE's minute on the settlement of Behar, recorded 18th September 1789, and printed in the Appendix to the 5th Report of the Committee of the House of Commons, dated 28th July 1812.

talookdars in their vicinity, the revenue was usually farmed out to amils; who either took engagements from the landholders for the jumma of their respective estates; or if they could not agree upon terms, the amil appointed his own agents to collect the rents of the under-tenants, and paid the *maliks*, or proprietors of the land, ten per cent *malikanah*.* It was further the custom in Behar, to make the annual mofussil settlement, with whomever it might be adjusted, on an estimate of the actual produce of the lands; which, unless a money rent were mutually agreed upon, was divisible, in kind, between the cultivator, and the landholder farmer or agent of government, in the proportion of $17\frac{1}{2}$ seers, (or fortieth parts of a maund,) to the former, and $22\frac{1}{2}$ to the three latter; the difference of 5-10ths being answerable for the expense of appraisement, and other charges.† The collectors of this province therefore, by whom the

* This was formally sanctioned by the president and council in the year 1771. In the form of agreement which the Patna provincial council had prescribed for the amil, or farmer, it was stipulated—"with respect to small zemindars and talookdars, I will settle the rents with them, if we can agree upon the terms; or, if we cannot, I will take the talook into my own hands; and make them an allowance of five per cent on the produce." On this the president and council (in a letter dated 4th February 1771) observed—"In the agreements which you have entered into with the farmers, we observe that by one of the articles the zemindars and the talookdars are put too much under the power of the farmers; who are allowed to settle such terms with those people as may be most for their interest; and if they cannot agree on those terms, they may take the talooks into their hands, on making an allowance to the talookdars of five per cent on the produce for their subsistence. As such a power may, and in many instances undoubtedly will, be exerted to the prejudice of the petty zemindars and talookdars, we desire that in your next agreements with the farmers, on making a new settlement, this article may be amended." In reply the Patna Council stated (2d March 1771). "By every information we can obtain, the farmers would never be able to adjust their rent with the talookdars, unless they were indulged with the alternative of taking the lands under their own management; and there is less reason to apprehend any inconvenience from the system, because the bad debts and expenses which they subject themselves to by so doing make them always more disposed to come to an agreement with the talookdars, if they will come to adequate terms. However, if you approve it, we will, in future, fix ten per cent, instead of five, as the talookdars allowance; and this we understand to be the ancient allowance, agreeable to the constitution of the country government." To this proposition the president and council gave their assent on the 13th May 1771; when they wrote to the provincial council.—"The regulation for obliging the farmers to allow the talookdars ten per cent, when they shall take the farm into their own hands, we entirely approve; as it is much more just and equitable than the former allowance."

† See letter from Collector of Behar to the President of the Board of Revenue, dated 5th February 1789, and printed by Mr. LAW, with other papers, relative to his *Mocur* &c &c plan of settlement.

the jumma of each actual proprietor of land was to be fixed "on fair and equitable principles, with the reserve of the approbation of the Board of Revenue," were directed "in fixing the jumma, to attend to the modes which had hitherto prevailed, in ascertaining the assets, and fixing the jumma, between the proprietors of small estates, and the principal proprietor or farmer; adopting in all practicable instances, the following general rule. That the average product of the land in common years, (assuming three or four for the calculation,) be taken as the basis of the settlement; and from this deductions be made equal to the malikanah and khurcha, leaving the remainder the jumma of government." In applying this rule, the collectors were authorized, in cases of great uncertainty, to measure the lands; but as this had been generally forbidden, it was not to be undertaken without a previous report to the Board of Revenue; and on the clearest grounds of the necessity of it. Nor was the rule of assessment, above stated, to be considered applicable to lands heretofore paying revenues immediately to government, which had been held at a fixed jumma during the last twelve years." The settlement of such lands, as in Bengal, was to be concluded with the proprietors at the jumma hitherto paid by them; subject to such deduction, as might be found equitable, on account of the sayer resumed or abolished. It was added, that "no abatement from the sudder jumma of 1196 is to be confirmed without the special sanction of the Governor General in Council," and that the sudder kistbundy, or deed of instalments, should be "so regulated, as to afford the proprietors of land all possible convenience in the discharge of their revenue, with due regard to the security of government." The collectors were enjoined "to proceed with due caution and information in the execution of these fundamental resolutions," and they were advised, that government would expect them to be "able, when called upon, to furnish clear and satisfactory explanations of their proceedings, particularly on the amount of the assessment."

Reg' 8, 1793.
Sec 82, 83.
to editors how
to proceed in
fixing the as-
sessment of this
province.

Section 84.
Exception from
general rule in
favor of lands
which had paid
a fixed revenue
to government
for twelve years.

Section 85.
Sanction of go-
vernment re-
quired for any
abatement of
jumma of 1196.
Section 86.
Instalments of
revenue, how to
be regulated.

Section 87.
Caution to col-
lectors in exe-
cution of these
fundamental
rules for the set-
tlement of Be-
har.

What districts included in part of Orissa, under the Company's government, before conquest of Cuttack.

State of Midnapore, when the decennial settlement was formed.

Reg. 3, 1793, Sec. 88. Collector authorized to alter the jumma of preceding year, in certain cases.

Section 89. To examine accounts of the gross receipts and expenditures of the landholders.

And ascertain in what instances they had been obliged to sell their lands to make good their engagements.

Section 90. Authorized to impose a fine for non-delivery of accounts.

THE portion of Orissa, which before the conquest of Cuttack in 1803 belonged to the East India Company and Crown of Great Britain, included only the district of Midnapore, (comprehending Midnapore proper, and part of Chucklah Jelasore,) and the salt districts. In Midnapore, a large increase of assessment, exceeding two lacks of rupees, had taken place in the Vilayuttee year 1196, on the information of the sudder canoongo, which afforded ground for believing, that the landrents paid by the ryots would admit of this increase, after providing for the subsistence of the landholders; for casual losses from unfavorable seasons; for all the usual charges of management; and even for a considerable amount stated to have been annually disbursed in religious and charitable expenditures. Experience proved however, that the canoongo's estimate was in many instances over rated; and the collector, informing the decennial settlement, to commence with the year 1197, was authorized to make alterations in the jumma of 1196, when from good information and his own experience, it might appear necessary to render the jumma of the respective zemindars, independent talookdars, and other actual proprietors of land, more equal and proportioned to the resources of their lands. The following rules were, at the same time, prescribed for the guidance of the collector, in the exercise of the discretion vested in him. 1. "In order to ascertain the necessity of granting any remissions upon the jumma of 1196, the collector is to examine the *wassilaut* and *akrajaut*, or the gross receipts and expenditures, comparing the one with the other, and checking the latter when exorbitant; and he is particularly to ascertain, to his full satisfaction, those instances, in which the zemindars, independent talookdars, or other actual proprietors of land, have been under the necessity of selling their lands and effects, to make good the amount of their stipulations." 2. "To obviate and correct, as far as possible, any unnecessary or studied delays in the zemindars and talookdars, in giving the accounts required, he is authorized to impose a moderate fine upon such of them as may be guilty of delays or evasions; reporting the cases, as they may occur, to the Board of Revenue." 3. "In

cases

cases of great doubt and uncertainty, the collector is authorized to measure the lands, or make such useful investigations into the produce of them, as he may deem necessary for ascertaining the truth." 4. "The collector is authorized, upon the grounds of the information obtained in the mode above pointed out, to grant remissions upon the jumma of 1196, the Governor General in Council expecting that no remissions will be allowed, but upon satisfactory explanations of the necessity of it; but the settlement is to be made, under an express reserve and limitation, that it be approved and confirmed by the Governor General in Council, and a declaration to this effect is to be made to the proprietors." 5. "The estimated allowance for casual deficiency upon the gross jumma is to be reduced from rupees 1,30,477, to the sum of rupees 50,516, which is three per cent upon the gross jumma of 16,84,868--5--1, after deducting from it the article of batta. 6. "The allowance for religious expenditures being enormous, shall also be reduced. The Governor General in Council does not mean to prescribe the exact amount of the reduction, but conceives that the sum now allowed will admit of a diminution of at least 35,000 rupees." 7. "The charges of purchasing provisions for the battalion, when in the town of Midnapore, and of firewood and grass, when travelling, if such have been actually incurred by the proprietors of land, are to be discontinued; and no such charge shall be incurred by them in future." 8. "The settlement is to be made, as far as possible, in one neat sum, free from any charges of moshairah, zemindarry amlah, poolbundy, cutcherry, or other charges of a similar nature; it being intended that all charges incidental to the receipt of the rents of the lands, independent of the allowances of the officers of government, and expenses attending the collection of the public revenue, shall be defrayed by the proprietors from the produce of their lands." 9. "With respect to any of the existing established zemindarry charges, such as pensions, charitable allowances, or others, which it may be thought proper to continue, they are to be paid by the collectors; and the proprietors are to have no concern in them, unless for special

Section 91.
In what cases
the lands may
be measured, or
useful investi-
gations made.

Section 92.
On information
so obtained, col-
lector may grant
abatements of
jumma of 1196,
subject to con-
firmation of Go-
vernor General
in Council

Section 93.
Sum to be al-
lowed for casual
deficiency in
realizing the
gross assess.

Section 94.
Allowance for
religious expen-
ditures.

Section 95.
Charges for Mi-
litary supplies of
provisions, fire-
wood, and grass,
discontinued.

Section 96.
Settlement to be
made, as far as
possible, in a
neat sum.

Section 97.
Pensions and
other public
allowances to
be paid by col-
lectors.

Section 98,
Reductions of
assessment, on
account of casual-
ties of season,
to be restored
by a russud.

Abatement of
jumma under
above instructi-
ons; at time of
decennial set-
tlement, and
at the close of
it.

Reg. 3, 1763,
Section 100,
Special rule for
the salt districts.

cial reasons of convenience, it should be deemed more expedient, in any instance, to entrust the landholders with the disbursement of them." 10. "Any occasional diminution of the jumma, which it may be necessary to allow on account of casualties of season, is to be restored by a russud, or progressive increase; but no russud shall be established to extend beyond the third year of the settlement, except in the separated talooks, and other petty mehalas; in which the Board of Revenue may allow a further extension of the russud, if it shall appear to them expedient." Under these instructions about 70,000 rupees of the increase obtained in 1193 were relinquished in the settlement of 1197; and at the close of the decennial settlement, a further abatement of more than 30,000 rupees was found requisite, in the lands which had been let in farm or held khas, in consequence of the landholders having declined to engage for the jumma required from them.⁴

THE only special rule enacted for the salt districts declared, that the general rules which have been stated, "as far as they relate to the term of the settlement, and the formation of it with the actual proprietors of the soil, are not to be considered applicable to such of the salt districts as have been held khas in past years, to facilitate the conduct of the business of the salt manufacture. There are to continue khas as heretofore; and the assessment of them is to be from year to year as hitherto, until the Governor General in Council shall think it proper to pass a regulation to the contrary."[†]

⁴ This fact is noticed in consequence of the district of Midnapore having been particularly brought forward, at the time of forming the decennial settlement, as capable of paying a large addition of revenue to government, without imposing any new burthen upon the ryots. The assessment fixed by that settlement was considered by some of the public officers to be much below the actual resources of the country; and the supposed receipts of the landholders from the under tenants. The Governor General in Council however, in communicating to the Court of Directors the abatement granted in the decennial jumma of Midnapore, after an experience of ten years, observed that "this jumma was in fact nominal only, having never been realized;" and added that the reduced amount since engaged for by the landholders, if paid with punctuality, would be "an increase to a considerable amount on the past collections." *Revenue general letter to Court of Directors, in September 1800.*

[†] The *Hyelee* salt districts are now let in farm at an annual jumma of rupees 2,15,333; the zemindars having declined to engage for the settlement of them. LN.

IN addition to the foregoing general and special rules, for the formation of the decennial settlement of Bengal, Behar, and Orissa, it was provided by the First Clause of Section 67, Regulation 8, 1793, "that such of the restrictions on actual proprietors of land, and farmers who hold farms immediately of government, as are set forth in their respective caboolecuts, and are not repealed by any regulation, printed and published in the manner directed in Regulation 41, 1793, are to be considered in full force. The restrictions referred to in this clause were in substance as follow. 1. That the stipulated revenue, which had been adjusted exclusive of all sayer duties, and of all existing lakhraj tenures, be paid regularly into the public treasury, according to the instalments specified in the annexed kistbundy, in sicca rupees, of lawful currency; or, until there be a sufficient number in circulation, in the species of rupees received from the undertenant, at the bazar rates of batta. 2. That payment of the full amount engaged for be not withheld, or delayed, on account of drought, inundation, encroachment of rivers, mortality, depopulation, or any other account whatever.* 3. That no part of the

Reg. 8, 1793, Sec. 67, Cl. 1. Restrictions on caboolecuts of landholders and farmers, not repealed by any regulation, still in force.

What restriction referred to, in engagements of landholders and farmers.

1. Respecting payment of stipulated revenue in sicca rupees.

2. Against pleas of drought, inundation, &c.

* Notwithstanding this clause, which was expedient to obviate claims for an abatement of the permanent assessment upon slight grounds, or whenever the actual assets of an estate may be adequate to the payment of the fixed revenue, cases have occurred of encroachment by rivers, so considerable, as to call for the equitable consideration of Government; and a local inquiry to ascertain the real extent of alluvion to an estate from diluvion, with the sufficiency of its remaining assets to make good the public assessment. In a particular instance of such an inquiry sanctioned by Government, at the suggestion of the Board of Revenue, a discrimination was made by the Governor General in Council, which it may be useful to state, in the following terms of his letter to the Board, dated 31st October 1799. "The ground on which we authorized the inquiry recommended in your letter of the 21 May 1797, was that considerable encroachments had been made on the estate of the zemindars, and that they were not consequently in possession of the lands on which the public revenue had been assessed; not that the assessment had been originally disproportionate, and the assets unequal to the sudler jumma. We should have thought it necessary to reject, in the first instance, any application for a re-adjustment of the jumma on a plea of this kind, as the permanency of the settlement would be nugatory, if, after the expiration of several years, claims to abatements were admitted on the ground of a deficiency of assets; a deficiency which it is to be presumed could not have existed when the zemindars entered into engagements, and which may be solely imputable to their mismanagement." When the assets of a lauded estate are so reduced by the encroachment of a river, that the most careful management of the residue

Against appropriation of lands included in settlement, to religious or charitable uses.

the lands included in the settlement be appropriated to religious, charitable or other uses, whereby they may become exempt from the public assessment; and that no lands actually held exempt from that assessment, as dewutter, birmooter, mohutteran, ayma; muddudmash, peeran, fakeeran, or any denomination of lakhraj, be assessed as malgoozary lands, without the previous sanction of government. 4. That for all lands of the above description, which may hereafter be assessed by the authority of government, such additional revenue be paid, as may be agreed upon, in the event of a settlement being made for them. 5. That all embankments within the limits of the estate (or farm,) be kept in repair; under penalty

will not supply a sufficient fund for paying the annual assessment upon the entire estate, it is evident that an abatement of revenue must, sooner or later, be allowed; for the land must be of no value, and unsaleable, with a charge upon it more than equal to its produce. The Indian law and usage of *alluvion* and *diluvion* correspond, in substance, with the Civil Law. What is gained by gradual accession is the property of the owner, to whose estate the recess of a river, or the sea, has annexed it. What is lost by the gradual encroachment of a river, or the sea, is an accidental loss, without reparation, to the owner whose estate is thus destroyed; or, as Blackstone, (in the second book of his commentaries, ch. 16), expresses it, "if a river running between two lordships, by degrees gains upon the one, and thereby leaves the other dry, the owner who loses his ground thus imperceptibly has no remedy." He adds. "But if the course of the river be changed by a sudden and violent flood, or other hasty means; and thereby a man loses his ground, it is said that he shall have what the river has left in any other place, as a recompense for this sudden loss; and this law of alluvions and derelictions, with regard to rivers, is nearly the same in the imperial law; from whence indeed these our determinations seem to have been drawn and adopted." I have not any immediate means of referring to authorities of the Roman Law, upon this point; but I find the following passage in *Vattel*, (Book 1, ch. 22.) After mentioning "the right of alluvion, that is, the increase of land which the course of a river may form by little and little;" he says, "If I take possession of a territory, declaring that I will have it limited by the river which washes it; or if it is given upon this footing; I by this means possess before hand the right of alluvion; and consequently I alone may appropriate to myself the right of all which the current of the river shall insensibly add to my territory. I say *insensibly*, because in the uncommon cases named *avulsion*, when the violence of the stream separates a considerable piece of land and joins it to another, so that it may be known again, this piece of land naturally belongs to its first master. The civil law has thus provided against and decided this case, when it happens between individual and individual. It ought to unite equity with the welfare of the state, and the care of preventing litigations." This statement of the civil law corresponds exactly with the established usage of Bengal. The most difficult question is, when *churs*, or islands, are thrown up in the middle of a river, or on the sea coast, to whom does the property of them appertain? In the latter case indeed, when the *chur* is not immediately annexed to the contiguous estate, so as to come within the rule of gradual accession, there seems to be no doubt that the Island belongs to the state. In the large rivers also, such as the Ganges, Megna, and Burrumpooter,

if

penalty of being responsible for any loss that may arise from neglect.

if a chur be thrown up in the middle of the river, or in any part where there is no fordable channel on either side, it is, I believe, according to established usage, considered to belong to government. But if there be a ford on either side, it is deemed an accession to the estate connected with it by the ford. In smaller rivers, belonging to individuals, the right to a chur newly thrown up would of course vest in the proprietor of the bed of the river where the chur is formed. In consequence of material changes in the course of the Ganges and other rivers within the province of Benares, the collector of that province was instructed, in the year 1801, to ascertain the right of property in land gained by alluvion; and with that view put the following question to the pundits of the Hindoo College at Benares. "Should a piece of ground be thrown up by the river, who has the proprietary right? the contiguous zemindar, or the zemindar whose land has been carried away by the river? or government? you are required to state this according to the Shaster?" Their answer was "In such a case the land is the property of the zemindar whose estate is contiguous to the place where the land makes its appearance: no one else has any claim to it." A different and unsatisfactory answer to the same question being given by the canoongoes and serishtadars, the following orders were passed by government and communicated to the Board of Revenue on the 7th June 1804. "From the reports of the canoongoes and serishtadars, the right of property in lands gained by alluvion, in the province of Benares, appears still to be left indeterminate. On a consideration however of all the circumstances of the case, it does not appear to the Governor General in Council to be necessary for government to have recourse to the courts of justice, or to proceed to an immediate attachment of the lands. In all cases of that nature, the assessment, which government is entitled to demand from the lands, under the general laws and regulations of the country, is the primary object to which the attention of the public officers should be directed. If that object be secured, the right of property in the soil, even supposing government could establish such a right (which at present appears to be very uncertain) is comparatively of little importance. Under these circumstances the Governor General is of opinion, that whenever land may be formed by alluvion, the collector should call upon the person in actual possession of the property to enter into engagements for the revenue of the lands in question, as a new estate, and in the event of a refusal on the part of such person to execute the necessary engagements (after the jumma shall have been approved by your board and confirmed by government) that the collector should take charge of the lands, and provide for the management of them, in the manner observed with regard to other unsettled mehals, either in Benares, or in any other part of the country. By these means the person who may first have obtained possession of the lands will be considered to be *primâ facie* the proprietor of them, whether the settlement of the revenue shall be made with him, or whether the lands shall be let in farm, or shall be held *seer*, until some other individual shall have established a superior title to the property in the regular course of law. At the same time the Governor General in Council is of opinion that the collector should carefully explain to any other persons who may lay claims to the lands in question, either on the ground of losses sustained in their own estates, or on any other ground, that they are of course at liberty to prosecute for the recovery of the lands claimed by them in the regular course of law. By an adherence to the foregoing rule, it is presumable that the increase in the jumma, which may be obtained from lands gained by alluvion, will be nearly equal to the remissions which it may be necessary to grant, from time to time, in consequence of losses sustained by any of the zemindars whose estates lie contiguous to the course of the Ganges. The utmost caution should however be observed not to admit such claims except on the most satisfactory proof of the alleged losses, and of the inability of the zemindars to make good the public revenue

6. Information to be given of escheats.

7. Stipulation in favor of the ryots and other tenants.

8. Receipts and discharges to be given.

lect.* 6. That information be given to government of all escheats, arising from default of heirs, or otherwise, under penalty of being fined double the value, or double the annual produce. 7. That no exactions or oppressive practises be committed towards the ryots, and other tenants; and that they be not, on any account, dispossessed from their tenures, whilst they perform the conditions of them; and whilst the term of their tenures be unexpired. 8. That receipts and discharges be regularly granted for all sums

from the produce of their remaining lands. If in any particular cases you should conceive it to be an object for government to assert a title to the immediate property in lands gained by allusion, and be also of opinion that such title can be maintained in the courts of justice, in opposition to the claims of individuals, you will apply to the Governor General in Council for his orders on the subject." The general importance of the questions referred to in this note will, it is hoped, excuse the length of it: as well as the addition of the following extract of a letter from the secretary in the revenue department to the board of revenue, under date the 2d September 1868, relative to several churs attached by the assistant magistrate of zillah Tipperah, in the vicinity of the island of Bhaminy. "The Governor General in Council directs me to observe that it must have been apparent to you, from the tenor of the public correspondence which has been brought under your notice, that the abovementioned churs were not ordered by government to be attached with any view whatever to an increase of the public revenue; but solely for the purpose of preventing the fatal consequences which frequently arise from disputed claims to lands of that description. or as you have yourselves expressed it, with a view to objects of police. There is reason to apprehend that all the evils, which it was the object of the attachment to prevent, might ensue, were the lands generally to be immediately restored to either of the contending parties; and as the nature of the case does not require the adoption of that measure, as an act of justice, the Governor General in Council desires that you will conform to the following instructions on this subject. The Governor General in Council remarks, that the assistant to the magistrate has already very properly released several churs from attachment, on the ground of their having been included in the settlement made with the proprietors of Bhaminy. For the same reason his Lordship in Council desires that the collector may be directed to release the churs denominated *mugnee* and *joogneer kaladeeah*. With respect to the remaining churs; the Governor General in Council desires that you will direct the collector to receive any claims which may be preferred to them by individuals, and after making such summary enquiry into them as the nature of the case will conveniently admit, to report to you for the orders of government, what persons may *prima facie* appear to have the best title to the churs claimed by them respectively. The collector and your board will at the same time consider whether, according to the general principles observed with respect to this point, the lands are liable to a separate assessment or otherwise; and in the former case you will state what jumma you would propose to be fixed upon them."

* This clause does not include the embankments of large rivers, and certain other embankments, which from their extent, and the damage which the country would sustain from their not being kept in repair, have been considered public works. These are repaired annually at the expense of government, under special rules which will be hereafter stated under the head of *Embankments*.

received

received from them. 9. That implicit obedience be shewn to all regulations, which have been, or may be prescribed by government, concerning the rents of the ryots, and the collection from under-tenants and agents of every description; as well as from all other persons whatever; the fullest confidence being entertained, that all such regulations will be consonant to equity; and for the general benefit of the community. The above nine articles were common to the engagements of both landholders and farmers. In the cuboolecuts of the latter it was further stipulated—10. That in the event of the farmer's not paying the revenue due from him, and of there not being assets to make good the arrear from the distress and sale of his property, real and personal, it be optional with government, either to revoke the lease, or to sell the remainder of the term of it by public auction; returning, in the latter case, any surplus, above the balance due, to the defaulting farmer, his heirs, or assigns. 11. That the farmer shall not transfer, or assign, the lease made to him for the whole or any part of the term thereof, to any person, or persons, without the previous consent of government. 12. That the farmer will not sell, or destroy, any trees growing within the limits of his farm, or otherwise injure the rights and interests of the proprietor of the land; and that at the expiration of his lease, he will surrender the land, and every thing thereunto belonging, in as good a state, and condition, as it was in at the time of his receiving the same. 13. That the lease being personal, in the event of the farmer's death before the expiration of it, government will be at liberty to continue the farm to his heirs, or not; and it will also be at the option of the latter to decline the remainder of the lease, if they should be desirous of doing so. In all instances wherein the farmer, besides the public revenue engaged for, was bound to pay malikanah, at the established rate of ten per cent, to an excluded landholder, a stipulation to this effect was likewise included in his cuboolecut. And where the settlement was made for more than one village, whether with a landholder

Obedience
be shewn to
all regulations
concerning the
rents of the ry-
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tions from un-
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Further stipula-
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10. Option re-
served to go-
vernment, in
certain cases, of
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lease to fuddle
farmers; or to
sell the remain-
ing term of
them.

11. Farmer not
to transfer, or
assign his lease,
in whole, or in
part, without
the consent of
government.

12. Farmer not
to sell trees, or
otherwise in-
jure rights of
proprietors; and
to surrender the
estate, at the end
of his lease, as
he received it.

13. Lease to
farmer's per-
sonal and con-
tinuance of it
to his heirs, op-
tional with
both parties.

Additional sti-
pulation when
malikanah was
payable by the
farmer, to an
excluded pro-
prietor.

Another clause
in engagements
of landholders
and farmers.

For village
settlement &
assessment,
to be delivered
monthly. But
in case of this
record after-
wards relin-
quished.

Reg. 8, 1793.
Sect. on 67,
Clause 4.
Supercession of
another rule and
clause, which by
landholders and
farmers were re-
sponsible for rob-
beries and
thefts.

Reg. 8, 1793.
Sect. on 66.
Landholders
farmers, and
their agents and
dependents, pro-
hibited from in-
terference in
matters within
the jurisdiction
of the civil
and criminal
courts, and the
magistrates.

or farmer, a clause was introduced, in conformity with an original rule for the decennial settlement (article 43, of the rules approved by the Governor General in Council on the 23d November 1791,) undertaking "to distribute the assessment of the entire estate, or farm, on the several villages contained therein, equally and impartially, according to the rents derived therefrom; and to deliver a record of such distribution in the course of the three first months of the ensuing year; and successively for each year." But this record, which was "intended only to be a standard for fixing the revenue of government on lands transferred by sale, or otherwise," not being found sufficiently accurate for that purpose, and the landholders being supposed unwilling to furnish it, lest it might discover the improved assets of their estates, though this was not directly required,* the demand of it was relinquished; and the rule for it omitted in Regulation 8, 1793. That regulation also expressly declared the supercession of another original rule for the settlement, and corresponding clause in the engagements of the landholders and farmers, whereby, according to the former usage, they were made responsible for robberies and thefts committed within their respective estates and farms, so far as to produce the offenders and property. This responsibility, except in cases of aid, connivance, or other misconduct, ceased on their being exonerated from the charge of the police, as already stated under that head.† It may be added, in this place, that by Section 66, Regulation 8, 1793, "zemindars, independent talookdars, and other actual proprietors of land, dependent talookdars, farmers of land holding farms immediately of government, and all persons, farming lands of the abovementioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents, and ryots, are prohibited from taking cognizance or interfering in matters or causes coming within the jurisdiction of the courts of civil judicature, or the

* See the rule at length in Sir E. COLLEBROOK'S Digest. vol. III, page 37.

† See part II, Section IV, on the Police.

courts of circuit, or the magistrates, under pain of being liable to the payment of such fine to government, and damages to the party injured, as the court of judicature, in which they may be prosecuted for the act, may deem it proper to impose and award.” The landholders having been restricted, by the regulations in force before the period of the decennial settlement,* from borrowing money on the credit of their estates, as well as from transferring their estates, by sale or otherwise, without the sanction of the Board of Revenue, it was further declared by the second clause of Section 67, Regulation 8, 1793, in addition to the declaration contained in the eighth article of the proclamation, dated 22d March 1793, that “ actual proprietors of land are to be considered to have been entitled, between the period of the conclusion of the settlement with them, and the 22d March 1793, the date of the proclamation declaring the decennial settlement perpetual, inserted in Regulation 1, 1793, to borrow money on the credit of their lands, and to sell or otherwise dispose of them, subject to the rules and restrictions existing when the transaction took place; and all bonâ fide transfers of zemindaries or other estates, or talooks, made by any actual proprietor of land, or dependent talookdar, subsequent to the 8th June 1787, are to be deemed valid, although they shall have taken place without the sanction of the Board of Revenue, required to be obtained by the regulations passed on that date.” With reference to a rule passed on the 29th October 1790, which rescinded the previous restriction against loans to landholders, without the permission of the Board of Revenue, it was added in the section above cited, that “ all actual proprietors of land and dependent talookdars are to be held to have been at liberty, from the 29th October 1790, to borrow money without the sanction of the Board of Revenue.”

Reg. 8, 1793.
Section 67.
Proprietors of
land declared
at liberty to bor-
row money on
the credit of
their estates;
and former res-
trictions of the
disposal of them
done away.

* The restriction referred to was contained in a clause of the 20th article of the dewanny adawlut regulations passed on the 5th July 1781, and re-enacted on the 27th June 1787; which was rescinded by a rule passed on the 29th October 1790.—Vide Sir E. COLERIDGE's digest, vol. 111, pages 51. 101. and 111. also Article 53 of regulations for the revenue department passed 8th June 1787. Digest vol. 111, page 261. The construction given by the court of sudder dewanny adawlut to the rule passed on the 29th October 1790, as not applicable to debts contracted by the landholders before that date, has been already noticed, in page, 179 of the first volume of this analysis.

Reg. 8, 1793.
Sec 67, Clause 5.
Provision for
cases, in which
the rules for the
decennial settle-
ment might ap-
pear inappli-
cable.

Clause 6.
On in which the
settlement could
not be completed
within the
year 1197.

THE only further provisions of Regulation 8, 1793, which it appears requisite to mention in this place, are, that if, in any instance, the rules for the decennial settlement, should appear inapplicable to particular local circumstances, the collector was directed "to attend to the spirit of them; and carry them into execution, in such mode, as circumstances might allow; reporting any alterations or modifications which he might deem necessary;" and, lastly, that "if, from want of sufficient materials or information, or on account of other impediments, the collectors should be unable to complete the settlement of all the pergunnahs under their charge, agreeably to the prescribed plan, within the year 1197, of the eras current in the three provinces respectively, the settlement was to be made for one year only, according to the principles laid down in the regulations of the 25th April 1788, for the settlement of 1196, the year preceding the first year of the decennial settlement."

Progress made
in forming the
decennial settle-
ment under
foregoing in-
structions and
computed as-
sessment.

UNDER the above instructions, the permanent settlement in some districts did not take place till the Bengal and Fusly year 1198, but from a "report of the progress made in the decennial settlement of Bengal, Behar, and Orissa," laid before the Board of Revenue, by their secretary, in August 1791, it appeared, that it had then been concluded throughout all the districts, except Bhagulpore, Chittagong, Cooch Behar, Dacca, Mymensing and Tipperah; for which it was also in the course of adjustment. By this report, the permanent assessment of the land revenue of the three provinces, (exclusive of the abkaree, or tax on spirituous liquors, to be hereafter collected separately on account of government, and clear of all sums included in the gross jumma for public allowances and pensions, as well as for the establishments of tehseldars, appointed to collect the revenue of the numerous petty landholders in Behar, and separated talookdars in Bengal,) was computed to be sicca rupces 2,57,46,644, viz. Bengal rupees 1,90,40,380; Behar rupees 53,09,481; and Orissa rupees 13,96,783. This assessment, with what might be expected from

Permanent as-

from the abkaree, and from the discontinuance of pensions included in the gross jumma, to the amount of nearly four lacks of rupees, being more than equal to the sum of 2,60,00000 rupees, which the Court of Directors, (in their General letter of 12th April 1786,) on a review of the assessment and collections during a period of twelve years subsequent to the famine of 1770, had noticed as an estimate of permanent revenue exceeding "the average of the actual gross collections of the twelve years," the court, on consideration of the report abovementioned, (in their letter of 19th September 1792,) declared their satisfaction with the settlement therein stated, as far as it had been concluded; adding "The amount appears to be, on the whole, as much as, exclusive of the alienated lands and the sayer, could easily or certainly be, in the circumstances of the country, levied from it; and we are happy that, with the abolition of a tax so widely oppressive as the sayer is found to have been, it can afford a permanent revenue equal to the medium of our past receipts." The final conclusion of the decennial settlement exhibited a still more favorable result in its ultimate neat amount;* and by an official statement dated 1st September 1800, of the annual gross collections on account of the ordinary land and sayer revenue of the provinces of Bengal, Behar, Orissa, and Benares, for the ten years preceding, and ten years following, the commencement of the decennial settlement, it appeared that the average collections of the last ten years, from 1790-1 to 1799-1800, (including about forty thousand rupees for Benares) amounted to Sa. Rs. 3,03,95,915; whereas the collections

settlement equal to expectation of the Court of Directors.

Who consequently expressed their satisfaction with it.

Comparative statement of annual gross collections during first ten years of the decennial settlement; and the ten years preceding.

* I cannot immediately refer to any statement of the exact amount. But the Governor General in Council, in a letter to the Court of Directors, dated 6th March 1790, adverting to the report of the secretary to the Board of Revenue, prepared in August 1791, remark—"From our letter of the 12th December last, you will observe that the ultimate neat amount of the decennial settlement will considerably exceed the sum estimated in the report alluded to, without calculating upon the expected reduction of the charges which have been added to the jumma and are now defrayed by government." Since this note was written, I have seen a "General account of the jumma and collections, under the permanent settlement of the lower provinces, (exclusive of Cuttack,) for 1812-13," of which the following is an abstract, shewing the assessment of each district, for the year of account which commenced with May 1812 and terminated with April 1813; and the amount actually received at the end of December 1813.

Concluding observations on the result.

tions of the preceding ten years, from 1780-1 to 1789-90, (after adding Rs. 51,99,612, for computed revenue of Benares, before the settlement with Rajah Mehipnarain in October 1781, afforded a yearly average of Rs. 2,95,33,004, only. Setting against the sayer duties collected and paid by the landholders and farmers during the ten years which preceded the decennial settlement, the abkaree and other articles of sayer continued under that settlement, (during the first ten years of which the average annual product appears from the statement above noticed to have been somewhat more than nine lacks of rupees,) the excess of sicca rupees 8,62,910 per annum, actually received into the public treasury during the period of the decennial settlement must be ascribed to the enlightened views of good policy, by which that settlement was re-

PROVINCES AND DISTRICTS.	Jumma of 1812-13.	Collected to 31st December 1813.
BENGAL PROVINCE.		
BURDWAN,.....Sa. Rs.	45,68,948 7 13 1	45,58,589 2 1 0
CHITTAGONG,	5,74,292 14 19 3	5,63,578 15 4 2
DACCA,	12,87,992 0 10 2	12,58,046 3 6 3
DINAGEPORE,	17,56,373 14 17 3	17,56,373 14 17 3
JESSORE,	11,96,972 8 1 2	11,75,401 14 11 1
MOORSHEDEABAD,	18,70,333 8 2 2	18,64,694 14 3 2
MYMENSING,	7,58,844 10 12 3	7,56,892 5 12 3
NUDDEA,	11,90,978 6 0 2	11,76,794 11 12 0
PURNEA,	10,35,789 14 15 2	10,32,346 13 5 0
RAJESAHYE,	14,70,902 11 15 3	14,62,018 8 6 4
RAJMEHAL,	56,986 6 2 2	56,986 6 2 2
RUNGPORE,	11,28,077 4 19 1	11,28,006 11 4 3
SYLHET,	2,91,179 3 1 3	2,90,802 3 17 0
TIPPERAH,	11,35,645 7 7 2	11,08,975 7 13 3
24-PERGUNNAS,	10,01,872 1 0 2	9,39,309 12 0 1
Total of Bengal	1,93,25,189 8 1 1	1,91,28,817 15 19 2
BEHAR PROVINCE.		
BEHAR,	16,84,412 3 1 1	16,63,421 12 14 2
BHAUGULPORE,	3,82,238 6 1 0	3,81,834 10 11 0
DHURRUMPORE,	2,44,756 4 0 1	2,44,756 4 0 1
SARUN,	14,09,951 5 14 3	14,08,987 7 2 3
SHAHABAD,	11,74,735 13 14 0	11,70,682 8 2 2
TIRHOOT,	12,29,285 11 13 1	12,17,837 7 8 3
Total of Behar	61,25,379 12 4 2	60,87,520 1 19 3
ORISSA PROVINCE.		
HIGELLEE, or SALT DISTRICTS,	2,91,464 3 18 1	2,91,464 3 18 1
MIDNAPORE,	14,91,306 3 8 1	14,89,237 13 10 1
Total of Orissa	17,82,770 7 6 2	17,80,702 1 8 2
Total of three Provinces, Sa. Rs.	2,72,33,339 11 12 1	2,69,97,040 3 7 3

It may be added that of the stated collections, Sa. Rs. 2,57,73,428 4 1 2 were realized within the year of account referred to, viz. by the 30th April 1813; a strong proof of the punctuality with which the land-revenue is collected under the permanent settlement.

gulated.

gulated. This result, under actual experience of the judicial and revenue systems established in 1793, must also be admitted to remove every apprehension of impediment to the punctual recovery of the public dues from the operation of the wise and just principles upon which those systems were founded. *

It may be expected, before I conclude this Section, that some notice should be taken of an Analysis of the revenues of Bengal,

Mr. J. Grant's
historical and
comparative
analysis of the
Revenues of
Bengal.

* Having in the first part of this work (page 31) cited the remarks of Sir JOHN SHERR, "on the mode of administering justice to the natives, in Bengal, and on the collection of the revenues;" written in January 1782; it is due to him to subjoin the following extract from a letter not before adverted to, dated 15th March 1793; and addressed by him to Lord CORNWALLIS on his return to India, with a view to succeed his Lordship in the high station of Governor General. "I have perused with attention the plan of judicial arrangement proposed by your Lordship, and adopted by the supreme board; and I have no hesitation in declaring my unqualified assent to the principles upon which it is founded; and my opinion that the Regulations detailed in it are well calculated to give energy to those principles. The state of affairs in this country during the course of a few years has undergone a sensible emendation. Considerable progress has been made in ascertaining and defining the rights of the landholders; their property by the late decision of the Honorable the Court of Directors, limiting the public demands upon it, has acquired stability; the collection of the revenue has been simplified; the Police of the country has been regulated; the administration of justice both civil and criminal has been improved; form and consistency have been substituted for discretionary authority; and the natives, familiarized to arrangements widely different from ancient practice, begin to understand the nature of them; and acknowledge the spirit of equity by which they have been dictated. This alteration in the circumstances of the country, and in the sentiments of the people, admits of the establishment of systematical arrangements, which at an earlier period perhaps could not have been introduced with efficacy; and hence the various functions which, in conformity to established habits, more limited experience, and the existing state of things, it was deemed proper to unite in the same officer, are now with propriety separated and assigned to many. The fundamental difference, between the proposed and existing arrangements, consists in the disjunction of the two functions now united in the same officer; that of the collection of the revenues, and that of the administration of civil justice; with which also the superintendence of the police is connected. The propriety of such an arrangement has been heretofore admitted; and was actually carried into practice; but the transfer of the judicial authority was only partially made, as the Collectors still continued authorized to take cognizance of revenue causes; and hence their jurisdiction was found perpetually to clash with that of the judges of Adawlut. By this defect the functions of both were interrupted; and the time of the supreme authority was occupied in deciding upon references originating in this source; and hence it was concluded that energy and simplicity would be better consulted by the re-union of the distinct functions of civil judge and collector of the revenues in the same person. That this reasoning was just at the period of its adoption, I am not upon reflection inclined to deny; whilst at the same time I profess my conviction, that the plan now proposed is most conformable to general principles and sound policy; and I am happy to observe that the principal defect, which formerly interrupted its success, is now effectually remedied by the Regulation which assigns the cognizance of all suits in the first instance to one and the same jurisdiction, that of the civil judge; and abolishes the trial of all causes whatever by the collectors of the revenue."

the first part of which was presented to Government in 1786, during the administration of Sir JOHN MACPHERSON; who appointed the author, Mr. JAMES GRANT, to the office of chief serishtadar, or "General Superintendent of the Native Revenue Accounts," to enable him to complete his inquiries; and at the same time transmitted to the Court of Directors the portion received of Mr. GRANT's work, entitled "an historical and comparative Analysis of the finances of the Soubah of Bengal, from the æra of the Mogul conquest, under the Emperor AKBAR, to the present time," as exhibiting a "summary view of the rise, progress, and extent of all the existing sources of public income, belonging of right, or virtually transferred, to the East India Company in form of the Dcwanny Grant in 1765." The letter to the Court of Directors, dated 28th August 1786, from which the above extract is taken, has been published by Mr. GRANT himself, in the Appendix to his "Inquiry into the nature of zemindarry tenures;" and as it describes the reform proposed by him, with the increase of revenue to be expected from it, I transcribe a further extract from it. "The idea of a reform, suggested in the Analysis, seems to be founded on the 39th clause on the last regulating Act of Parliament, referring the determination of the rights of the zemindars, &c. to the laws and constitution of India; from which it is supposed that there have been considerable deviations in the practical rules or forms of the Company's administration, since the acquisition of the dcwanny, as set forth in the pretended grievances of the landholders, and now required to be redressed according to the established custom or civil institution of the Mogul empire. The grand object of reform, besides the political advantage of re-establishing the equitable system of Mogul finance, on its simple original principles, goes to the realization of an additional revenue of *two crores* of rupees, not by any increase of assessment, or by new burthens on the people and country, but solely in the recovery of defalcations, and lost or hidden funds of public income, for the most part fraudulently withheld by several intermediate native

Transmitted to the Court of Directors, with letter from Governor or General and Council, dated 8th August 1786. Extract from above letter stating reform proposed by Mr. Grant, and increase of revenue expected from it.

native agents employed by government, in collecting the yearly rents from the ryots. This great pecuniary benefit is to arise apparently from two sources, different in their nature, and practicability of being brought forward: the one, productive of seventy one lacks, appears the readiest or easiest to be obtained, as originating in one simple operation of a reduced jumma, or settlement, on the acquisition of the dewanny, without competent authority, specification of particulars, or any sufficient reasons being assigned to warrant so large a diminution of the established income; the other, of a crore and twenty-nine lacks, will undoubtedly be more difficult, because it has never been properly ascertained, even under an arbitrary Mussulman government; being minutely dispersed throughout the country, and held under the sacred forms, for the most part, of religious or charitable donations, though in truth it has often been represented to consist altogether of unconstitutional or fraudulent alienations of the sovereign's property. But, exclusive of these two productive sources of yearly supply, a third presents itself in the analysis, little short of fifty lacks more, arising from a retrenchment of the ordinary mofussil expense in native agency, incurred since the year 1765; and for which it is pretended, if at all necessary, that there must have existed separate and sufficient funds for defraying it. The mode of attaining this object, in conformity to what is considered the constructive spirit of the act of parliament, is simply recurring to rules of the Mogul empire, to define the nature and sources of the public income, forms of management, amount collected, with allowed mofussil expenditure; to enfranchise, or appoint where deficient, those officers of government called canongues, registers or accomptants, throughout all the pergunnabs of the soubah, free from that slavish dependence on zemindars, under which they have long since been held; and place both these classes of native agents under the immediate and powerful controul of British collectors. This seems to be the grand preparatory regulation thought necessary to attain the ultimate object of the reform. In the mean time only a gradual and systematic improvement of the revenue can be carried

A collector-
ship offered to
Mr. Grant,
with a view to
ascertain the
practical effect
of his plan,
but declined
by him.

on at the conclusion of the annual bundobust, or settlement, made with zemindars, in proportion to the local intelligence, and the vigor and virtue of superintendents." To use the words of Mr. GRANT,* "It would be foreign to the purpose of the present inquiry to enter into a detail of the circumstances which occasioned first a suspension, and at length a total suppression, of the projected scheme of reform." I shall observe only, what he has himself noticed, that he declined the collectorship of Midnapore, which was offered to him, with a view to ascertain "the practicability and eligibility of carrying into execution" the measures and plan suggested by him.

Mr. Grants,
conclusions of
opposed and
denied by Mr.
Shore.

BUT it is necessary to mention that Mr. SHORE, in his minute upon the Bengal decennial settlement, (recorded 18th June 1789,) entered into a full consideration of the accounts and statements exhibited by Mr. GRANT; and with an acknowledgment of the latter's personal merit, opposed and denied the conclusions drawn by him. Mr. GRANT's estimate of the actual resources of Bengal was chiefly founded upon the accounts which he had, with great diligence, procured and examined of CASIM ALI KHAN's assessment during the short period of his administration between September 1760 and July 1763. But Mr. SHORE observed that no proof had been adduced of this assessment, amounting to Rs. 2,56,24, 223, and including an increase of more than seventy lacks of rupees upon the amount levied by his predecessors, having ever been realized. The public accounts stated an uncollected balance of Rs. 79,74,065 in the Bengal year 1168, or 1761-2; and two instances were selected for a more detailed explanation of CASIM ALI's proceedings. In the above year a farmer, named RAMNAUT BHADRE, engaged for the revenue of the Dinagepore zemindarry at Rs. 26,44,733, current revenue; or, with arrears, 27,06,019. He discovered apparent assets for Rs. 27,42,552, besides the

* Inpage 12, of his treatise upon zemindary tenures; where also may be seen a fuller statement of the reform proposed by him. The appendix No. 11, besides the cited letter of the Bengal Government to the Court of Directors, contains a letter from the Governor General and Council to the Board of Revenue dated 19th July 1786, on the subject of his appointment to be chief serishtadar and the object intended by it.

sale—proceeds of part of the zemindar's effects, and the resumption of assigned lands; but collected only Rupees 20,10,335; of which Rupees 1,87,809 were expended in charges, reducing the neat receipts to Rupees 18,22,526. In addition to this sum, he borrowed 1,09,669 Rupees, and paid to CÁSİM ĀLI Rupees 19,32,195; leaving a balance unpaid of Rupees 7,73,824. Yet the particulars of his collections exhibit a list of more than two hundred articles of exaction, in their very nature extortionate and oppressive; and the total amount received was liable to deduction for an allowance to the zemindar. In the same year (1169 B. S.) the assessment of the district of Rungpore was fixed by the aumil, ABDUL ALI KHAN, at Rs. 11,29,324, in the face of an existing balance of Rs. 3,57,986. The severities exercised to collect the above sum, forced the ryots of one of the pergunnahs (Carjeehaut) into rebellion; yet the amount realized was only Rs. 6,68,692. Mr. SHORE, inferred from these instances, and from the arbitrary and immoderate increase of the general assessment of Bengal, supported by the concurrent testimony of the natives and subsequent experience, that so far from CÁSİM ALI's assessment being any evidence of the capacity of the country, it must be considered “a proof of violence and extortion which rendered subsequent decay inevitable.” He further reasoned, that even if the enhanced assessment of CÁSİM ALI had been collected for a year or two, it would not establish the practicability of fixing the amount of his exactions as a permanent revenue. A precedent derived from extortion can have little weight with those who do not wish to imitate it; nor can such means be productive for a continuance. The general proceedings of CÁSİM ALI's administration he described in the following terms. “After ascertaining what the ryots paid, his next object was to collect as much as possible of that amount for himself. He reduced the stipends of intermediate agency; and attempted to abolish every gradation of subjects between the government and cultivator, as far as he could; and if the plan and measures adopted by him had been long pursued, the subjects of the state would have been reduced to three

classes only, an oppressed peasantry, rapacious tax-gatherers, and an over-awing military." The assessment of Bengal, which from the settlement of TOODER MUL (or TOORUN MUL) in 1582, to the administration of JÂFER KHAN in 1722, (a period of 140 years) had, exclusive of new territory, been raised in the sum of Rupees 24,18,298 only, was, chiefly by the novel and unconstitutional imposition of *Abwab* or arbitrary cesses, not grounded upon any local investigation of improved assets, augmented by no less a sum than Rupees 1,10,77,190 in the succeeding forty one years, between 1722 and 1763.* This rapid increase, and the mode whereby it was effected, furnished, *a priori*, a strong pre-
sumption

* The following is an abstract of the progressive settlement of Bengal from 1582 to 1763, as stated in Mr. GRANT'S Analysis.

TOORUNMUL's settlement in 1582, for Khalsa and Jagheer lands, .. Rupees 1,06,93,152

SULTAN SUJAH's settlement in 1658, including an increase of Rupees 9,87,162, in the assets of the Khalsa lands; and Rupees 14,35,593, for newly annexed territory. 1,31,15,907

JAFER KHAN's settlement in 1722, including a further increase of assets, amounting to Rupees 11,72,279; and the first article of *Abwab*, (*Khas-nousses*) rated at Rupees 2,38,537..... 1,45,47,043

CASIM ALI KHAN's settlement in 1763, including four articles of *abwab* imposed by SUJAH KHAN, and amounting to Rupees 19,11,093; three articles imposed by ALIVERDI KHAN, amounting to Rupees 22,25,554; the *Surf Sulca*, or discount of $1\frac{1}{2}$ Anna per Sicca Rupee imposed by himself, Rupees 4,53,438; and his own increase, under the heads of *h fuyut Hus-tabood*, *h fuyut Jagirdaran* and *Tizjer Jagirdaran*, amounting to Rupees 70,27,652; but exclusive of deductions for diminished territory; and certain allowances to zemindars, canoongoes and others, under the head of *Muztoorat* or *specified* articles, amounting to Rupees 1,06,055, Sicca Rupees..... 2,50,41,239

The same result is exhibited in the following *Progressive Account of the Settlement of Bengal, from 1582 to 1763*, annexed to Mr. SHORE'S Minute of the 18th June 1772.

TOORUNMUL's Settlement, 1582:		Sa Rs	Sa Rs.
Khalsa Lands,		63,41,26	
Jagheer, or assigned Lands,		43,48,60	
Total assessment		,06,93,152
SULTAN SUJAH's Settlement in 1658:			
Khalsa Lands as above.....		63,41,260	
Increase on a hystabood in 76 years,		9,87,162	
Annexations of territory,		14,35,593	
		87,67,015	
Jagheer, or assigned Lands,		43,48,892	
Total assessment		1,31,15,907

JAFER KHAN'S

sumption against the propriety of it ; which could be refuted only by proof that the circumstances of the country justified the impositions added to the original assessment; or by authentic records, evincing that the revenue thus enhanced was actually collected for a series of years. But so far from this being the case, Mr. SHORN appealed to documents, which proved that the existing settlement of the land revenue exceeded the amount received in any year before the assessment of CASIM ALI KHAN ; and this he rejected as an improper standard of comparison. He also compared the actual revenue with the assessment of the first year after the Company's acquisition of the country; and adverting to the subsequent diminution of specie in circulation, the effects of the famine in 1770, and scarcity in 1781 and 1787, the known poverty of many of the zemindars, and other circumstances connected with the general state of the country and its inhabitants, concluded that the present assessment might be pronounced nearly equal to what it ought to be, with an exception to any increase which might arise from the future assessment of lands held exempt from the payment of revenue.* He at the same time considered Mr.

CRANT'S

JAFER KHAN'S Settlement in 1722 :	
Khalsa Lands, as above, according to SUJAH's settlement.....	£7 67,015
Increase in 64 years,	11,72,279
Resumed from the Jagheer as compensation	10,2 ,115
Total Khalsa	1,09,60 700
Jagheer, or assigned Lands,	33,27,477
Total assessment	1,42,88,180
SUJAH KHAN'S Settlement in 1135 B. S. or A. D. 1728 :	
Khalsa Lands.....	1,09,18 091
Jagheer, or assigned Lands,	33,27,477
Total assessment	1 42,45,568
CASIM ALI KHAN'S Settlement in 1763 :	
Jumma, as above, according to SUJAH KHAN'S assessment,	1,42,45,561
Deduct : dismembered territory, Muzkoonaut, Dacca, Jigheer, and Sebundy changes,	4,13,191
	1,38,32,370
Add <i>Abwab</i> or Taxes, progressively imposed from the year 1722 to the year 1763,	1,17,91,853
Total assessment	2,56,24,223

* The following extracts from Mr. SHORN'S minute will more fully and accurately exhibit his sentiments on the points adverted to.

“ To

GRANT's estimate, of the additional revenue to be expected from this source, as exaggerated, and incompatible with the principles of

“To form a correct judgment of the weight of the assessment upon the country generally, we ought to possess the following data ; *First*.—A knowledge of the rents actually paid by the ryots, compared with the produce of their labour. *Secondly*. Accurate accounts of what the zemindars and farmers collect, and of their payments to government. *Thirdly*. Detailed accounts of the alienated lands, shewing the quantity of them, the persons by whom they were granted, the dates of the grants, and those by whom they are now held ; in order to determine how far a resumption should take place. All the material part of this information is wanting ; and to procure it would require much time and indefatigable research. But there are certain points connected with it, which are ascertained ; and these may enable us to adopt some probable conclusion, though less certain than what the premised information would afford. I believe that the Ryots in Bengal are generally taxed in a proportion of one half of the produce of their labour ; and we must therefore admit that the assessment, with respect to them, is full as much as it ought to be, supposing it even to be one third. That it is so, seems the general opinion, whether the stated proportion be just or not. We also know, from observation and experience, that the mode of living amongst the zemindars is neither ostentatious nor expensive ; and that the proportion of the collections left to them does not exceed one tenth of the amount ; and as we have the clearest evidence that they are in general needy and embarrassed with debt, we may without hesitation pronounce, that their profits are not immoderate. Against these conclusions, it may be stated, that much collusion exists in the collection of the rents and revenues ; and that it is practised both by the ryots and zemindars, as well as by the intermediate classes ; and more particularly by the head ryots or munduls. But from what I can collect upon this subject, by my own enquiries and from the reports of the collectors, I should rather suppose that the detection of these abuses would prove of advantage towards the equalization of the demands for rent, than productive of any considerable increase ; the practicability or amount of which is not within the bounds of conjecture. The resumption of alienated lands is a separate resource, which may add to the revenues without imposing new burthens upon the ryots or zemindars, provided that in the execution of it an allowance be made for those situations where the produce of these secreted tenures is at present applied to the discharge of the public rents of other lands. Any decision with regard to the assessment upon the country, which may be formed from general statements of the *demands* only, is liable to be fallacious, and at the best can only be probable. Authentic accounts of the revenues actually levied from the country for a continued series of years, where the circumstances of it with respect to cultivation, population, specie, and commerce, can be proved to be similar, or where the difference can be ascertained, may furnish a standard for comparison at a future period. Adopting however the accounts referred to in this discussion as a test, the actual revenues of the Bengal year 1193, terminating in April 1787, will, upon the whole, be found to exceed the receipts of any year before *CASIM ALI*, whose settlement I reject as any fair standard of comparison. The difference between the amount of the settlement of the first year of the *de-wanny*, and that of 1193 or 1786-7, is upon the whole in favor of the latter, without including the profits on salt ; for the decrease in the land revenues is more than made up by the customs and duties ; and when we reflect upon the annual diminution of the specie from that period until the present time ; when we consider the effects of the famine and subsequent partial scarcity and calamities, with other arguments which have been stated, we may perhaps pronounce the present assessment nearly equal to what it ought to be. I state this conclusion with an exception of any increase which may arise from a resumption of alienated lands, made with a due consideration of the circumstances attending them. This conclusion is deduced from a comparison of abstract accounts, and from argu-

ments

of policy and humanity, which had hitherto guided the Company's officers in resuming privileges long possessed, and highly valued. He also contested a further estimate of increased resources, from applying the Moghul principle of finance, as stated by Mr. GRANT, to the computed gross produce of the lands; and declared his opinion, that if the Company were to limit their demand to one fourth of the gross produce (which Mr. GRANT considered to be the right of government, subject to a deduction of about twenty per cent for charges of zemindarry agency, and other disbursements) the revenue to be thus derived, after providing for the

ments of a general nature, and upon these grounds it may be just. When the information which has been furnished by the collectors upon their respective districts is taken into consideration, we may perhaps be enabled, by a more particular examination and comparison of the revenues and circumstances of each, to adopt a more accurate result regarding the total assessment; for I am willing to admit, that the revenues of some districts appear to be decreased without sufficient reasons assigned: others on the contrary may be rated too high. I shall not hesitate to renounce my present opinion, if in this examination I should see cause to warrant it; but I rather believe that it will confirm the sentiments which I have expressed. Mr. GRANT computes the gross revenue of Bengal, expedient and proper to be drawn into the Royal Exchequer, at *five crores and three lacs of Rupees*; and estimating the charges incidental to the collections at *fifty six lacs*, leaves for the Company a clear revenue from the subah of *four crores forty seven lacs*; including a positive reasonable yearly defalcation of at least *two crores of Sicca Rupees*. I neither admit his estimate nor his conclusion; both which I deem wholly unsupported by established facts or solid arguments. No man of experience, I believe, will assert that the country exhibits any external signs of this prodigious wealth. It is not to be discovered in the accumulation of the ryots or zemindars; nor to be accounted for in the extravagance of the latter. In tracing the revenues of the country for a period of more than two hundred years we find no statements to justify Mr. GRANT's calculations. Neither the abilities of JAFFER KHAN, nor the attempted extortions of CASSIM ALI afford any support to them. The discovery was reserved to the present period; but until better proofs be produced in support of it, I trust to the wisdom of all periods to decline adopting his estimate as any principle of action. In recording my opinion in opposition to the arguments and sentiments expressed by Mr. GRANT, I disavow every idea of speaking lightly of his Analysis. The labour and ingenuity of his researches are highly meritorious; they display a superior degree of knowledge and abilities, which I most readily admit and applaud; and am happy to avail myself of them whenever I can. With practical experience in the collections and management of the revenues, which Mr. GRANT does not profess to have acquired, he might have found many reasons to distrust the reality of his speculations; and still more the possibility of reducing them to practice. On this point indeed my sentiments are absolutely irreconcilable with those which he has adopted. I am well aware of the embarrassment under which the Company labour, from the enormity of their present debts; and if the resources of the country afforded in my opinion available means for diminishing the burthen, equal to what Mr. GRANT supposes, I should not hesitate to recommend an attempt for securing them; but convinced as I am that the attempt would be unsuccessful and distressing, the obligations of my duty impose upon me the avowal of this conviction."

necessary allowances, and charges of collection, would fall short of its actual amount.* It would be entering upon too extensive a field to go into the grounds of this controverted question; and I will add only the following extract from the letter of the Court of Directors, already more than once referred to as an authoritative document, bearing date the 16th September 1792. “The amount of present resources of our provinces has been another principal subject of discussion; and it is certainly deserving of the most attentive consideration, in the contemplation of a permanent settlement. We have found two very different views of it; one given by Mr. JAMES GRANT in his Analysis of the Revenues of Bengal; and another by Mr. SHORE in his valuable minute of 18th June 1789, already quoted. We willingly take this opportunity of repeating, that the work of Mr. GRANT appears to us a curious and interesting one; evincing both extraordinary disquisitory powers; and landable application of them to the affairs of the Company; whereby he has at length effected that which ought to have been performed at the period of our accession to the dewannee: for one of the most proper objects of enquiry at that juncture certainly was the real ability of the districts, and their financial history. Upon these subjects, as far as the native administration is concerned, Mr. GRANT’s able and ingenious researches have thrown more light than all the collected informations that preceded them: and they may have been of considerable use in enlarging and simplifying discussions, that were important in proceeding to a permanent settlement. But we must upon, the fullest consideration, disapprove entirely of the Mogul principle of taxation, the division of the actual produce be-

* It is impossible to do justice to Mr. GRANT’s Analysis, or Mr. SHORE’s minute upon the subject of it, without a greater detail than would be consistent with the nature of this work. An abstract of the former, with particulars of Mr. GRANT’s calculations, on all the data assumed by him, will be found in Part I. Chap. XII, XIII, of *British India Analyzed*. See also his letter to the Board of Revenue dated March 1st 1787; and printed in appendix III. to his *Dissertation upon Zemindary tenures*. But these references are superseded to those who have access to the appendix to the fifth report of the select committee 28th July 1812, which contains at length both Mr. GRANT’s Analysis and Mr. SHORE’s minute.

tween the sovereign and the immediate cultivator of the soil ; which, under various modifications, has continued to be the basis of practice unto the present time. We are convinced there are evils inherent in this mode greatly obstructive of national improvement and happiness. We are moreover by no means satisfied that our provinces have now resources equal to those which they possessed even when ceded to us. We wish indeed that we saw no reason to apprehend the contrary. From the best judgement we can form, the natural calamities to which the country has been subjected, joined to other circumstances, have greatly altered its state ; which at present affords no external signs of abounding wealth ; nor any probable source of large increase, except the alienated lands which remain a subject for investigation. In giving our opinion on the amount of the settlement, we have been not a little influenced by the conviction that true policy requires us to hold this remote dependent dominion under as moderate a taxation as will consist with the ends of our government. But in any case, after all the changes that thirty years nearly have produced and confirmed, we must be of opinion, that it would be vain to attempt to place things now upon the same footing whercon they stood at any distant period ; or to establish a reform by local scrutinies, which would be endless as well as odious. We see hence no standard or guide for fixing our demand, but the experience of a series of past years ; joined to such personal and official informations as are now procurable. These informations, upon an occasion so singularly interesting, we certainly could have wished to have been still more intelligent and full than they appear to be ; but finding that in this way of proceeding the amount of revenues which, after due consideration of the usual exigencies of our government, and of the reserve proper for extraordinary services, we had fixed in our general letter of the 12th April 1786, may be obtained, we do not wish to expose our subjects to the hazard of oppressive practices by requiring more.”*

* Since writing this Section I find the whole of Mr. GRANT's *Annals of the finances of Bengal*, including a second part submitted to Lord CORNWALLIS in February 1788, and entitled *An historical and comparative view of the revenues of Bengal*, with a supplement relative

relative to the provinces of Behar, Chuklah Midnapore, and the zemindarry of Benares, have been printed in the appendix to the 5th report of the select committee ; who remark upon it as follows : “ By this document it was endeavoured to shew that the real value of the lands had been concealed, and the confidence of government abused, by the native officers entrusted, during the early part of the Dewanny Grant, with the management of the land revenue ; and that the aggregate assessment ought to be above half a million per annum, estimated in English money, more than had at any time been collected. The performance alluded to is, in many respects, meritorious and interesting ; and the committee have been induced to insert it in the appendix (No. 4,) as explanatory of the ancient rules and tenures under the Mahomedan dominion, and of the state of the revenues ; but in regard to the amount of the assessment suggested for Bengal, the misconceptions of the author appear to have been sufficiently explained in a minute of Mr. Smeaz, already given in the appendix, N. 1.”



2. ASSESSMENT OF BENARES.

THE sovereignty of this province was granted to the East India Company by a firman from the King SHAH ÂĀLŪM, dated 4th Rejub, A. R. 6; or 29th December 1764; was relinquished to the Newab Vizier SHĠJAH OO-DOULAH, (on whom it had been dependent before the date of the above firman,) by a treaty between the Vizier, the Newab of Bengal (NUJM OO-DOULAH,) and the Company, dated the 16th August 1765; and was finally vested in the Company, from the beginning of July 1775, by the fifth article of a treaty with the Vizier ASUF-OO-DOULAH, dated 20th Rubee-ool-awul, A. H. 1189, or 21st May 1775.* A sunnud and pottah were granted by the Governor General and Council to Rajah CHYT SING, on the 15th April 1776, whereby the zemindarry of Sirkais Benares, Ghazeepore, and Chunar, and part of Sirkar Juanpoor in Soobah Allahabad, the kotwaly, aumeeny, and foudjarry of these sirkars, the mint at Benares, and other rights and privileges previously enjoyed by the Rajah under the Newab Vizeer, were confirmed to him, on condition of his paying an annual tribute of 23,40,240 Benares muchlidar rupees; equal to 22,66,180 Calcutta sicca rupees, if paid at Benares; or sicca rupees 22,21,745 if paid in Calcutta. On the expulsion of CHYT SING in 1781, a pottah was granted to his successor Rajah MEHIPNARAIN, and a counterpart cabooleent taken from him, dated 4th September 1781, whereby the zemindary was confirmed to him at a fixed annual jumma of Benares sicca rupees 4,000,000, exclusive of jageers and pensions, amounting to rupees 61,496. But on the 27th October 1794, an agreement (ikrarnamah) was entered into between Rajah MEHIPNARAIN, and Mr. DUNCAN, Resident at Benares, on the part of the East India Company, wherein the

Sovereignty of Benares, and its dependencies, when vested in the East India Company.

Sunnud and pottah granted to Rajah of Benares, in April 1776, and tribute payable by him.

Pottah granted to Rajah Mehipnarin in September 1781, and fixed jumma agreed to by him.

Further agreement with Rajah Mehipnarin 17th October 1794.

* The whole of the documents specified, with the sunnud and pottah to Rajah CHYT SING in April 1776, are entered in the second report of the Select Committee of the House of Commons, appointed in February 1781. The exact date of the final cession to the Company appears to have been the 4th July 1775, viz a month and a half after the treaty of 21st May 1775; but it is generally recognized in the regulations as having taken place on the 1st July 1775.

former agreed to the introduction of the same system and rules for the administration of justice, and the regulation of the revenues, as were established, in 1793, for the provinces of Bengal, Behar, and Orissa, under the following stipulations :—1. “ Out of the surplus revenue, over and above the forty lacks of rupees which, including the articles of deduction, were stipulated to be payable by Rajah MEHIPNARAIN, according to the istimrary pottah, which he received from the Honorable WARREN HASTINGS in the year 1781, one lack of rupees per annum is, without fail, to be received from the moolky treasury by Rajah MEHIPNARAIN, exclusive of the jaguires and ultumghas that are now in his possession ; and the remaining surplus is to be annually expended in this district ; and applied, under the authority of the Company’s government, towards the charges of the civil and judicial establishments ; in the support of the new and old courts ; for the maintenance of a pautsaul, or Hindoo college ; for repairing the roads and constructing bridges ; and promoting the cultivation, &c.” 2. “ The revenue settlement made of the lands within the Rauj of Benares, &c. having taken place with the privity and approbation of Rajah MEHIPNARAIN SING, the pottahs, receipts, and farugh-khutties, or acquittances, are passed under the seal and signature of the said Rajah, to the amils, zemindars, and farmers ; and the duster or office, and khazanchi or treasurer, of the said Rajah, having always remained for the carrying on of the country (i. e. revenue) business, the said signature, seal, office and treasurer are to remain in force and be continued as usual.” 3. “ In case of complaints relative to revenue causes, or charity ground, &c. being preferred to the huzoor (i. e. the English government) by any parties residing within the jageer and ultumgha, &c. the personal or private lands of Rajah MEHIPNARAIN SING, the enquiry thereto shall be made in like manner as such cases were amicably conducted between Mr. DUNCAN and the Rajah ; that is, since the gentlemen holding the office of collector have more concern and connection with such matters than the other gentlemen, the rule shall

shall be that, with the privity and ascertainment of the said collector, (who is to have regard to the honor and dignity of the said Rajah) such causes are to be settled through the channel of the said Rajah, or of the officers of the said Rajah's cutcherry; it being at the same time understood and provided, that as it is a duty incumbent on the Honorable Company's government to distribute and ensure the attainment of justice to all the inhabitants of Benares, should it so happen that, after referring such complaints to the Rajah or to his officers in the cutcherry, the contentment of the parties complaining and aggrieved shall not be obtained, the Rajah shall, relative to the adjustment of such causes, listen to, and approve of, the suggestions and advice of the collector; in like manner as hath been practised in the time of Mr. DUNCAN; and it is also incumbent on the said collector, in all proper and just cases, to show the utmost attention possible to the Rajah's accommodation; and to hold in view the maintenance of his honor and dignity; such being entirely consistent with the wishes of government: and if (which God forbid) any such subject should arise, as cannot be settled between the said collector and the Rajah aforesaid, the decision in such cause shall depend on the Governor General in Council."

PREVIOUSLY to the execution of the above agreement (the last article of which has been already noticed in the first part of this Analysis, page 50) preparatory measures had been adopted by the Resident at Benares, under instructions from the Governor General in Council, for introducing a permanent settlement with the village zemindars, and other landholders, on principles similar to those established for the provinces of Bengal, Behar, and Orissa; especially the rules prescribed for the settlement of Behar, the local circumstances of which province were most analogous to those of Benares. Before the year 1781, the Resident stationed with the Rajah, on the part of the British government, was not empowered to interfere in the internal management of the zemindarry. But on the accession of Rajah MEHIBNARAIN, whose age disqualified

Measures adopted, before execution of above agreement, to prepare for introduction of a permanent settlement with the landholders.

Preamble to regulation 2, 1785. Commencement of interference of Resident at Benares in management of the zemindarry.

disqualified him for the personal discharge of the extensive duties which devolved upon him, under the pottah and engagement above mentioned, the administration of the revenue was committed to the charge of naibs, or deputies, on his behalf, with some degree of control from the Resident; and in the year 1787, with a view to correct abuses and provide for the better management of the zemindary, the Resident was entrusted with a fuller superintendence both of the settlement and collections. The measures consequently adopted by him from the commencement of the Fusly year 1195, or September 1787, till the declaration of a fixed assessment in perpetuity, on the 27th March 1795, are detailed in Regulation 2, 1795. The mofussil settlement in 1195 Fusly was made, as usual, for one year, with aumils; who contracted to pay the rajah a certain amount, "according to the *tushkhees*, or account particulars of the revenue funds in their respective aumildaries; and agreed that on proof of their making any undue exactions beyond the funds assigned to them, they should be liable to pay a fine of three times the amount to government." The caboolecut, which contained this stipulation, was drawn up according to a form proposed by the Resident. He also prevailed on the Rajah to cause a new form of pottah to be established for the ryots, calculated to provide against sundry abuses and irregularities, which will be more particularly noticed in the next part of this analysis; and as since the year 1781 various new articles of *abwab* and charges had been introduced, the pottah provided "that all new abwab and charges, introduced since the Fusly year 1187, should, from the year 1196 of the same era, be considered as prohibited and relinquished; and that the *māl*, or original rent, and *abwāb*, or cesses, which existed in 1187 Fusly, being incorporated, so as to form only one aggregate sum, this sum, or specific rate, should constitute what the ryots or cultivators of the *nukdy* lands, (viz. lands paying a money-rent instead of a proportion of the produce,) were to pay per begah." This important rule, and other rules established at the same period, for determining the measurement and valuation of *betacc* lands, (subject to a payment in kind, or

Resident's arrangements from Fusly year 1195, detailed in Regulation 2, 1795.

Regulation 2, 1795 sec 2. Measures adopted in forming settlement of 1195 Fusly.

New form of Caboolecut for aumils.

And of pottahs for ryots.

Section 6. Approved by Governor General in Council.

on appraisement of the actual product,) were approved by the Governor General in Council on the 3d October 1788, "as preparatory to the establishment of a more regular system of assessing and collecting the revenue; and with a view to the introduction of this system the Resident was authorized to take upon himself the entire formation of the settlement for 1196." The canoongoes, who had been instructed to co-operate with the Rajah's aumeens in fixing the rent of the *nukdy* lands, and proportionate assessment of the *Betdee*, were accordingly called upon for reports of the rent produce, calculating the *asul* and *abwab*, as in 1187 *Fusly*; the rates of which year were declared to be the standard, according to which the payments of the *ryots* were to be regulated in future;" and the settlement of 1196 was formed principally on a comparison of these reports, for 1187 and 1195, with estimates of the actual assets of the current year; deducting an allowance of ten per cent (called *dch-yek*) from the gross assets, for the profits of the *aumil*, and charges of *mofussil* management; besides the usual articles of deduction, under the heads of *Mafec* and *Moojraee*, (being partly *lakheraj* lands, and partly pensions or charitable allowances;) and half the amount of an established item of collection called *bhuráee*, which was allowed to the *aumil* for charges of remittance. The other moiety had been collected as an asset of revenue; but the allowance to the *aumil* being now provided for by a deduction from the estimated assets, the whole article was abolished in the course of the arrangements made this year, together with two other articles, denominated *nuzeranah*, and *rusoom khazanah*; and also the exclusive privilege of manufacturing an earthen product, called *syjee*, which had been let in farm by the Rajah's officers.* A cess hitherto levied from the *ryots*, for the canoongoes, was likewise discontinued; and a new form of *caboolcut* was taken from the *aumils*, specifying the estimate of assets delivered over to them, with the deductions

And Resident authorized to make settlement of 1196. Reports of canoongoes formed the principal groundwork of the settlement.

Deduct 10 from estimated assets.

Section 7. *Bhuráee* and other articles of collection, with *Sayer Mehal*, abolished.

Section 8. *Caboolcut* taken from *aumils*.

* It appears from Section 75, Regulation 22, 1795, that "the exclusive privilege of providing *chunam* and *firewood* for the use and consumption of the city of Benares" which had been before let in farm, was also abolished on the 16th November 1789, and the traffic in these articles rendered free."

made therefrom; as well as the new form of pottah for the ryots; with an obligation to "perform and abide by the several stipulations and prescriptions therein contained, as fundamental conditions of the settlement." They also expressly engaged not to demand from the ryots any abwab established since 1187; nor any abwab for *bhurace*, (their moiety of which had been deducted from the computed assets;) or for an allowance to the canoongoes, which would be hereafter paid by government. On these principles a general settlement of the zemindarry was formed with aumils, in 1196, partly on leases for one year, and partly for five years; and the aumils, who had obtained leases for the latter term, were required, at the end of the first year, to take engagements for the remaining four years, from such of the landholders as were willing to engage for the revenue of their estates, according to the assets stated by the canoongoes.

Section 9.
Aumils required to accept engagements of landholders for computed assets of their estates.

Section 10.
Settlement of 1196 approved by the Governor General in Council; with instructions to introduce a permanent system.

THE settlement thus made in about one-third of the province of Benares for one year, and the other two-thirds for five years, was approved by the Governor General in Council on the 17th June 1789. The Resident was at the same time directed "to endeavour to introduce into Benares the system proposed for the permanent settlement of the province of Behar; having for its object the ascertaining and limiting the demand of government, and securing to its subjects in perpetuity the quiet enjoyment of the fruits of their industry. The arrangements which had been adopted in Benares were obviously inadequate for that purpose. The amount of the revenue varied agreeably to the extent of the actual cultivation; and the produce of the lands not being ascertainable, until the *rebbi* or second crop had ripened, the aumils collected in the mean time from their under-renters (whether village zemindars or farmers) on account, until the arrival of the season for forming an estimate of the produce of the whole year, when the zemindars or farmers entered into *caboolecuts* for the year. This mode of collection was productive of many disputes. When it appeared to the aumil that his under-farmers were unwilling

of for-
mation of
the revenue

willing to pay to him an adequate consideration for their farms, he became desirous of dispossessing them; or of collecting the rents himself immediately from the ryots. This system tended to discourage agriculture; at the same time, that it operated as a source of constant altercation between the aumils and the various competitors for village tenures; and it was consequently desirable to conclude separate mofussil settlements, under the sanction of government, for each talook and village, throughout the country."

consequence
resulting from
it.

On receipt of the orders abovementioned, the Resident issued instructions to the aumils and canoongoes, "to proceed in the mofussil settlement; declaring it however subject to his revision and confirmation, as he had determined, when the rebbly crop should have been sown, to form an estimate of the revenue funds in each village, payable by the zemindars and farmers respectively, and to fix it for the four unexpired years of the quinquennial leases of the aumils, wherever those leases extended. This revision was appointed to take place in each pergunnah, with the further intention that after the mofussil settlement for four years, beginning from 1197, should have been approved, it might be declared permanent, for the same term as the settlement to be made for the period of ten years, throughout that portion of the province which was let on only an annual lease. The last part of this arrangement was to be executed more immediately under the personal inspection of the Resident, on nearly the same general principles as had been prescribed by government for the settlement of the province of Behar." On these preparatory measures being communicated to the Governor General in Council, it was resolved, that a settlement of the zemindarry of Benares should be formed for a period of ten years, agreeably to the resolutions passed on the 20th May, and 18th of September 1789, regarding the settlement of the province of Behar. "But Rajah MAHIPNARAIN at that time declining (though he subsequently acquiesced in the measure) to consent to the restoration of the numerous class of village zemindars, who had been dispossessed, and reduced to the situation

Section 11.
Arrangements
for mofussil settle-
ment of villages
and ten years.

Section 12.
Temporary ex-
clusion of village
zemindars, who
were dispos-
sessed of their
estates, before
July 1, 1776.

situation of cultivating ryots, during the administrations of Rajahs **BULWANT SING** and **CHYT SING**, it became necessary to exclude from the benefit of the rights to be conferred by this decennial settlement all those landholders, who had been so dispossessed and reduced before the 1st of July 1775, (or 1st Jemad-ool-awuk 1182 Fussily,) the date of the final transfer of the sovereignty of Benares to the Company.”

Section 13.
By whom and
on what prin-
ciples the per-
manent settle-
ment was made.

“ For the purpose of forming this permanent settlement, the Resident and his assistants proceeded in November 1789, on different circuits, through the four sircars, composing the zemindarry of Benares; their object being, in respect to the quartennial mo-fussil settlements, to examine and revise the assessment, as proposed by the aumils and canoongoes, on the ground of the asul and abwab up to the year 1187; and correct such errors as should appear to have been made, either in the exclusion of persons entitled to be considered as zemindars, (consistently with the rule of exclusion above specified,) or in the allotment of jumma, in the constituent parts of the total of the assessment of each district. This allotment was to be regulated, (as well in regard to the quartennial, as the decennial settlements,) as nearly as might be ascertainable, according to the ability of the respective villages, or puttces, (shares or sub-divisions of villages,) so as to admit of the zemindars and farmers realizing the revenue assessed in conformity to the revenue rates of 1187; and where a large proportion of the land remained waste and uncultivated, a gradual and moderate *musud*, or increase, for a few years of the term, was to be assessed. It was further provided, that the article of spirituous liquors, and the tax upon shop-keepers, dealers, and weavers, comprehended under the denominations of *abkary*, *ghur dewary*, and *khergwi*, should be separated from the collections of the land revenue, and realized by the aumils of the respective districts, as far as those articles separately existed, but without attempting to extend them. In this manner, and with the assistance of the *Zushkhees* accounts for the preceding ten years, and such other

accounts

Section 14.
By whom po-
taks were effec-
ted, and what

accounts and local information as could be obtained through the canongoes or otherwise; the mofussil settlements for four and ten years were concluded. The pottalis for the settlements for four years were issued under the seals of the amils, and numbered and countersigned in English by the Resident or his assistants; and those for the settlements for ten years were authenticated by the signatures of the Rajah and the Resident. The caboolcuts, or engagements, entered into by the village zemindars and farmers, on the formation of the permanent settlement, bound them to an observance of the following articles: 1. To pay the stipulated annual revenue punctually from the month of Khar, (October,) to Jeyt, (June,) in each year; and agreeing in case of failure, that their property, real and personal, should be sold to make good the deficiency: 2. Not to attach without the sanction of government, any *maafiy*, *mujray*, *kishnarpun*, or other description of lakheraj land, in the possession of individuals, and held by them exempt from the payment of revenue up to the end of the Fussily year 1195; in the event of government's resuming any part of such exempted lands, to pay the revenue assessable thereon, in addition to the jumma fixed by their engagements; and not to make any new grants of exempted lands, on pain of such lands being confiscated to government, and of double the revenue assessable thereon being levied from the grantee or grantees, for the period during which such grantee or grantees should have continued in possession. 3. To collect from the ryots according to the *haskumnamas*, or regulations, of the 25th of June and 1st of July 1788. 4. To grant receipts to the ryots for their payments, under the penalty of a fine of double the amount, to be awarded to any ryot who should prove that he had been refused such receipt. 5. To support the canongoes in the full exercise of their functions. 6. Not to levy or receive any of the articles of the abolished *saurjehant*, nor any sum on account of *khanek sheomary*, (another term for the *ghur dewary*, or house tax,) or *abkary*; the collection of these having been separated from the general settlement, and committed on behalf of government, to

engagements
were taken for
settlements of
four, and ten
years.

Conditions of
engagements
taken from
landholders and
farmers.

the aumils. The penalty for breach of this article was fixed at three times the amount, that might be illicitly collected. 7. To be responsible, subordinately to the aumil, for the maintenance of the peace, and for apprehending all disturbers thereof, in and throughout their respective estates and farms; not to harbour thieves or robbers; but to secure their persons and deliver them up for trial; as well as to recover, or in failure thereof, to be answerable for, and to make good the value of, all property robbed or stolen within their respective limits. 8. To send in for trial, accompanied by an attested report of the circumstances of the case, all parties concerned in broils, affrays, murders, or other breaches of the peace. 9. To obey all summonses or orders issued on the part of government, on pain of incurring forfeiture of property, as for rebellion."

"On the conclusion of this permanent settlement new engagements were also entered into with the aumils. By these engagements their office was declared to be that of *hakim*, or magistrate, and *tehseeldar*, or collector of the revenue ascertained by the pottahs issued to the village zemindars and farmers; to be payable from their several aumildarries; and they rendered themselves responsible for realizing the amount of this revenue, and bound themselves to abstain from levying any excess on their own account; to enforce the several stipulations with the landholders and farmers; and to cause the village zemindars to issue pottahs to their ryots in conformity to the regulation of 25th June 1788. They were also vested with a discretionary authority to diminish, or admit to be lowered, the revenue rates of 1187 Fussily, where the exaction of them might be found, under the actual circumstances of any part of the district, to operate to the oppression or distress of the present cultivators; but they were at the same time prohibited from enhancing the rates of 1187, under any pretence whatsoever. They were further required to grant receipts for all payments of revenue made to them, on pain of being subject for refusal or omission to such fine as the Resident should think it proper

Section 151:
Engagements
taken from the
aumils; and na-
ture of their
offices, as teh-
seeldar and ha-
kim, in 1789,
and subsequent
years, before
introduction of
present judicial
system in
1795.

proper to impose ; to regulate the rates of *tullubana* leviable on parties in arrear, by the custom of the *pergunnah*, accounting for and paying the sum realized under this head to government ; and to refrain from the collection of any part of the *sayer* duties, under the same penalty for disobedience, as the village *zemindars* and farmers were made liable to in similar cases. They were also declared personally responsible to government in the first instance, for the maintenance of the peace, and thefts and robberies committed within their respective *aumildarries*, under the rules prescribed to the *zemindars* and farmers ; with a right however to have recourse, for their own indemnification, to the landholder or farmer, within whose limits the theft or robbery might occur. In their capacities of *hakims*, or magistrates, the *aumils* were instructed to apprehend and send in for trial, accompanied by the necessary information and evidence, all persons committing breaches of the peace ; and in concert with the *canongoes*, to enquire into, and to decide, (subject to an appeal to the Resident, should either of the parties desire it,) according to the principles of the regulations of 25th of June 1788, all complaints preferred to them upon differences between the *zemindars*, farmers, and *ryots*, relative to the *malguzary*. They were likewise authorized to refer, with the consent of the parties, other causes of a civil nature, respecting cast, marriage, shares in land, and debts, to be determined by arbitration ; or, where both parties should not consent to this mode of adjustment, to desire them to repair to, and institute their suits in, the *moolky dewanny adawlut*, or provincial civil court established at Benares ; to all orders and decrees issued from which, or from any other court of justice, or from the *Rajah* or the Resident, the *aumils* were required, on pain of dismissal, to yield the most prompt obedience. It having afterwards appeared that in several instances the *aumils* had clandestinely availed themselves of their authority to procure deeds of conveyance, in their own names or those of their relations, for lands the property of persons in arrears on account of the revenue, and whose balances had been thereby either wholly or partially liquidated,

quidated, a rule was published on the 19th of September 1791, prohibiting and declaring null and void all such conveyances that might be made in future: and on the 31st of October following, a further rule was passed, giving to all persons who might have thus disposed of their lands, or to their heirs, or puttédars, the option of suing for the recovery of them in a court of justice, at any time within five years from the date of such conveyances; and the parties so prosecuting were declared entitled to have the conveyances annulled, and to regain possession of the property, on repaying to the purchasing aumil, or his heirs, the purchase money, with simple interest."

Regulation 92,
1796, Section
57.
Roads and high-
ways ordered to
be kept in re-
pair by the ze-
minders and
renters.

Section 79.
Prohibition of
the construction
of any new
forts by land-
holders and far-
mers.

Jungles and
thickets to be
cleared.

Section 76.
But the same
system not to cul-
tivate on both
sides of the
frontier between
the Company's
and Vizier's do-
minions.

In addition to the obligations which have been stated, on the part of the landholders, farmers, and aumils, the latter were required by a circular order from the Resident, dated the 14th December 1790, "to cause the roads and highways to be kept in a due state of repair by the zemindars, and renters, of each talooka or village, as far as such roads and highways extend through their respective limits." On the 2d January 1790, the aumils were also required "to be attentive to prevent any zemindar, or farmer, within their limits, from constructing any new ghurry or fort, or repairing any of the existing forts, it being desirable, that the latter might gradually become unserviceable as strongholds. The aumils were at the same time instructed to endeavour to clear their several districts of the jungles and thickets, which had been in many instances purposely allowed to grow by the landholders, as places in which they might take refuge against the regular operations of the authority of government. The clearing of these places was further necessary, as they afforded shelter to robbers and other ill disposed persons. But in consequence of the inconvenience and disputes which resulted from the same ryots cultivating lands on both sides of the line of frontier, between the district of Benares and the dominions of the Newab Vizier; this practice was prohibited on the 14th December 1790, and the aumils under both jurisdictions were apprized accordingly."

The adjustment of disputed claims to land formed one of the principal difficulties which occurred in the progress of the settlement. In many instances contests existed between the putteedars or sharers in the same village, as to their respective proportions, or between claimants of different families to the same villages. "In all these cases, it was observed as a general rule to confirm or admit those zemindars, who were in the actual occupancy, or who had at any time been known to have possession since the final transfer of Benares to the Company in 1775; (the zemindars dispossessed before which period the Governor General in Council determined, on the 11th April 1788, should not be restored, in compliance with the objections which the Rajah then entertained to their restoration *) leaving those who might think themselves entitled to reinstatement under this rule, to seek redress in the moolkyadawlut. But as it became necessary during the progress of the settlement to pass orders, in a summary way, on disputes of this nature, it was explained to all parties, that the new pottahs were meant only to fix the revenue; and in no wise to constitute a bar to the recovery of any proprietary right in land, for which suits might be instituted in the court of justice above-mentioned, in the same manner as if no such pottahs had been granted. Instructions to this effect were issued to the judge of the court; and separate engagements were taken from all the present pottah-holders, whether zemindars or farmers, binding them to a ready attendance on, and submission to, the judicial authority of the said court, and the court of appeal, in respect to all such causes; and the aumils were prohibited from making alterations in the pottahs, excepting in conformity to judgments passed in both or either of those courts. Sundry village farmers having been removed during the progress of the settlement, by the reinstatement of the rightful zemindars, a rule was published on the 21st of February 1790, for adjusting the accounts of the *wasilant*, or current year's collections, between such parties. By

Regulations,
1795, Section
16.
Rules established
for the ad-
justment of dis-
puted claims to
land; subject
to a future ju-
dicial inquiry in
the civil courts.

* The Rajah's subsequent relinquishment of the objections referred to has been already noticed.

this rule, the displaced farmers were entitled to credit for the amount of whatever *tuccavy*, (an advance of money for the purchase of seed,) they might establish to have advanced to the ryots; together with a commission of three per cent, whatever might be the extent of the farm, on the amount of the revenue realized. The amount of this charge was to be borne altogether by the re-instated zemindar, without his being entitled to make any demand on that account from his ryots; who were only to repay to him the amount of the *tuccavy*, that had been really advanced to them by the removed farmer. But such farmer was not to be allowed credit for the amount of any bonds or engagements executed by ryots, for sums stated to be advanced for *tuccavy*, which should in reality have been taken from them for the balances of former years."

Section 17:
Cause 1.
General State of
landed property
in Benares;
and mode of
settlement ob-
served where
there were two
or more puttee-
dars.

"THE landholders in the province of Benares consist for the most part of village zemindars, paying the revenue of their lands to government jointly with one or more putteedars or partners, descended from the same common stock. Some of these putteedars have had their interior puttees or shares rendered distinct; whilst those of the major part still continue annexed to, and blended in common with, the share or shares of the principal of the family, or of the head men amongst the brethren, being either one or more, whose names have been usually inserted in the pottahs, cabooleuts, and other engagements for the public revenue. With the general consent of the inferior putteedars, this mode was adhered to in the permanent settlement, leaving an option to such putteedars as might, then or afterwards, think themselves aggrieved, or be desirous of separating from their brethren, to prosecute for that purpose in the adawlut. By this mode of procedure they may obtain a separation of their family share of the estate, and procure a separate pottah subject to the payment of a proportionate part of the jumma assessed on the joint estate; but in the mean time those of the brethren whose names stand inserted in the government's pottah

pottah are held and considered to be immediately responsible to government for the whole of that jumma. The only exception to this general rule exists in the pergunnah of *Kur-
rendeh*, where the decennial settlement could only be concluded by a considerable number of these zemindars being admitted to enter into cabooleuts, in which they agreed to the nomination of certain persons to act on their joint parts, under the description of *serberakars* or managers. This expedient was acquiesced in, under the condition that the responsibility of the zemindars should remain undiminished; and that they might, whenever they pleased, dismiss these agents, after adjusting accounts with and satisfying them, as to any balance that might be justly due to them. There are also many talookdaries within the four sirkars composing the zemindary of Benares, which have depending on them a greater or less number of village zemindars, who retain the right of disposing by sale of their own estates, subject to the payment of the usual jumma to the talookdar. The settlement of government was concluded (on the same principles as those prescribed respecting the zemindaries,) with these talookdars, who were left to assess their village zemindars, either in proportion to their own sudder jumma, with some addition for charges of management, or according to the extent and value of the produce, as local custom, or the good will of the parties, might direct." This regard to local usage, in favor of some of the principal landholders in the Benares province (whose relation to *dependent zemindars* is directly opposite to that of talookdary and zemindary tenures in other provinces) appears to have been a deviation, in some measure, from the principle which, in Bengal, Behar, and Orissa, governed the separation of talookdars, possessing a right of property in the lands composing their talooks; unless the title deeds (which are not specified) of the village zemindars, left dependent on the superior talookdars in the province of Benares, be such as would not have established a right to independence under the rules cited for the settlement of the lower provinces. But it further appears, from a

rule

Clause 4.
Talookdary
tenures in Benar-
es.

Remark on a
bove rule.

Regulation 17

1795, Section 35.

In what case village zemindars entitled to become independent of superior talookdars.

rule prescribed for the guidance of the Moolky Dewanny Adawlut (and continued in the ninth clause of Section 35, Regulation 22, 1795,) that a village zemindar, who had paid his revenue independently of a superior talookdar, for a complete year since the 1st July 1775, was on proof of this fact "entitled to be rendered independent of such talookdar."

Rules concerning zemindary claims, which are still in force under Section 89, Regulation 22, 1795.

Regulation 22, 1795, Section 26, Clause 3. Civil court prohibited taking cognizance of claims, in cases of dispossession before 1st July 1775.

Section 37. Explanation to what claims this rule is applicable.

Section 28. Not applicable to cases of possession, for a year, since July 1775.

Section 36. Clause 2.

Restoration of one putteedar within limited period entitles all the putteedars of the same estate to restoration.

Clause 3.

Whether the putteedar who held possession in such cases, has his partners in suing or not.

Section 4.

Rules for cases in which land-

The following rules concerning zemindary claims, which under Section 89, Regulation 22, 1795, are still in force, subject to the provisions contained in Regulation 1, 1795, hereafter mentioned, may also be noticed in this place. 1. Under the objections of the Rajah, and consequent order of government, already referred to, the civil court was "prohibited from taking cognizance of claims to lands and zemindary rights, where the party had been dispossessed antecedent to the 1st July 1775;" but it was explained that this rule, "having been enacted to regulate the admission or rejection of claims to zemindary rights that had been resumed by the preceding native Government, and not having in view the claims of individuals against each other," was not to be applied to such claims. Nor was it to be considered applicable to cases in which a zemindar who, though dispossessed before July 1775, had since held uninterrupted "possession during one year, and closed the collections." 2. It was declared that "possession within the limited period, of any one or more of the putteedars, or sharers, in any one or more puttees or shares, in a talooka, village, or zemindary, either as zemindar or farmer, is to entitle to restoration all the other persons having a right to claim, as putteedars of that talooka, village, or zemindary, whether such puttees were distinct or common." 3. "Possession within the period limited is to entitle to restoration the partners of any putteedar, or partner, having held such possession, although the putteedar in whose person the right shall thus have been obtained may not think fit to join the other putteedars in suing for it." 4. "In the case of a malik, or proprietor of land, being in possession as a farmer, in partnership with another

another who claims no right of property, but holds merely as a farmer, the renting partner, who is also malik or proprietor, on indemnifying his farming partner for all losses he may in the judgment of the court have sustained by the tenure, shall be competent to remain singly in possession, as proprietor, to the exclusion of the farming partner. 5. "Any putteedar or partner regaining possession, is to entitle all the other putteedars to re-enter likewise, although these last may not have held possession within the period limited." 6. "The heirs of deceased zemindars, who shall have had possession within the period limited, may sue for, and are entitled to restoration." 7. No zemindar shall be entitled in consequence of his restoration to any village or estate, to recover, by suit in the adawlut, lands alleged by him to belong to such village, but which shall be known to have been separated therefrom, and annexed to another estate, previous to the period limited for the general restoration of landholders." 8. "Claims to land, founded on the redemption of the mortgage thereof, but of which neither of the parties concerned in the transaction of such mortgage shall have been in possession, within the period limited for the general restoration of the landholders, are to be rejected; but such parties, who shall thus have redeemed their own or their forefathers' zemindaries, will be nevertheless entitled to restoration under Section 3, Regulation 1, 1795, on the existing lease being avoided by the death, resignation, or removal of the farmer." 9. "In the event of one of the putteedars, within the period limited for the general restoration of landholders, having contracted as a principal for the revenue with government, and made to his putteedars or sharers some allowance, in consideration of their right in the estate, this situation is not to entitle them to prosecute for personal possession, or management, of any part of such estate or other, or superior rights, to those in which they had acquiesced." 10. "If a landholder prosecuting for restoration, shall establish to the satisfaction of the court, that he has *bonâ fide* held possession, although not in his own name, but by another, acting on his part as farmer or renter

holder and farmer may be in joint possession.

Clause 5.
Any putteedar regaining possession, entitled all the putteedars to re-enter.

Clause 6.
Heirs of deceased zemindars, who had possession, entitled to restoration.

Clause 7.
Restriction on recovery of lands annexed to another estate.

Clause 8.
Redemption of mortgages, without possession, when the lands have been let in farm, not to entitle to restoration till the existing lease becomes void.

Clause 10.
Case in which claims of putteedars, to possession or management are barred by their own acquiescence.

Clause 11.
Possession by agency, in the name of another, to entitle to restoration.

Exception of
certain ayma-
dars.

Regulation 2,
1795, Section
9, Clause 3.
What aymadars
there referred
to.

Regulation 22,
1795, Section
15, Clause 14.
Receipt of ma-
likanah, with-
out possession,
and payment of
revenue, for a
year, not suffi-
cient to entitle
to re-instateme-
nt.

Section 33.
Limitation of
claims to dispo-
sed boundaries.

With exception
of cases under
inquiry at the
end of the Fus-
sily year 1185.

Section 89.
Rule of limita-
tion not appli-
cable unless the
change of bound-
ary be proved
to have taken
place before the
period fixed.

of the lands sued for, he shall thereby become entitled to re-instatment, in the same manner as if the tenure had been in his own name; unless the party thus suing shall be one of the dispossessed aymadars, or one of their heirs; to the re-instatment of whom an exception is made in Regulation 2, 1795.

The lands assigned to the aymadars here referred to were sequestered during the Government of the Newab Vizeer; and the aymadars had, in general, obtained money assignments in lieu of them. 11. "The allegation of any dispossessed landholder, of his having received from the party in possession of the lands claimed by him, some consideration in money, or ground, as malikanah, is not to be held sufficient to entitle such party or parties to prosecute for re-instatment, if he or they shall not have had possession; and paid the revenue for one complete year, within the period limited for the general restoration of landholders." 12. "The restoration of the village zemindars at the conclusion of the permanent settlement having given rise to many disputes between them; concerning the boundaries of their several estates, a proclamation was issued on the 7th of April 1791, declaring that all lands and ground were to remain as they stood annexed and possessed up to the year 1183 Fussily, (ending in September 1775;) and that no claims were to be admitted contrary to this principle; with the exception of such cases, as having originated antecedently to the year in question, were then still in a course of enquiry, either by arbitration, or otherwise, under the authority of the existing Native Government, and still remained unadjusted. In such cases; it was determined that the resident, on the application of the parties, might refer the hearing of the cause to the adawlut, which was thereon to take cognizance of the suit, and to decide it according to justice, without reference to the period of limitation." But it was added in Section 89, Regulation 22, 1795, that "unless the separation and annexation shall be clearly proved to have taken place previous to the period referred to, or a regular decree shall have been since passed by some com-

potent court, deciding the dispute; the courts, in future; are not to consider the mere lapse of time as a bar to their taking cognizance of such suits. As far as may be practicable, the courts are to procure all such disputes to be decided by arbitration; and in the event of any part of the lands, included in the pottahs, for the payment of the revenue assessed on the estates of either of the parties at the conclusion of the permanent settlement in 1197, being awarded to the other; either by arbitrators, or by the courts, a proportionate part of the fixed revenue shall also become payable by the party thus acquiring the additional land; and the amount of such proportion shall be determined, agreeably to the rules prescribed in Regulation 27, 1795."

Or a regular decree have been since passed. Such disputes to be decided, as far as practicable by arbitration.

And a proportion of the fixed revenue to be payable for any transfer of lands included in pottahs for the permanent settlement.

THE following special exceptions, from local circumstances, to the general rules observed in the permanent settlement of the Benares province, are noticed in Regulation 2, 1795. 1. *Pergunnah Agowkie Burhur* in the sirkar of Chunar, appertained to its separate Rajahs, until they were expelled by Rajah BULWUNT SING. Their descendants appearing; and having performed some public services in 1781, government ordered, that Rajah ADIL SAH, their then representative, should be restored; This order appearing afterwards to be repugnant to the principle of the general settlement concluded with Rajah MEHIPNARAIN SING, the tenure of the family of ADIL SAH was, by an order of government, under date the 11th of April 1788, limited to the period of his natural life, during which the interior settlement of the pergunnah, was, with his consent, and under his seal and the Resident's signature, made with the talookdars and zemindars, most of whom were of his own blood and lineage; or with the *birteeas*, being the persons on whom his ancestors had conferred grants of lands; or with *gherooas*, being such persons as he or his ancestors had put in possession of lands of mortgage. These several descriptions of landholders are considered as having a permanent interest in their tenures; which have therefore been included in the general account of the settlements concluded with zemindars. The remainder

Special exceptions to general rules for settlement of Benares province, Regulation 2, 1795, Section 27, Clause 4, Pergunnah Agowkie Burhur.

der of the pergunnah has been let to farmers, on the conditions common to the rest of the four sirkars. Rajah ADIL SAH subsequently dying, government, with the acquiescence of Rajah MAHIPNARAIN, permitted his heirs to succeed him in the pergunnah; in the permanent settlement of which, however, they are restricted from making any alterations or innovations, equally with the other aumils, or tehseeldars." 2. "*Pergunnah Beleeah* in the sirkar of Ghazee-pore, is similarly circumstanced as to the expulsion of its Rajahs by Rajah BULWUNT SING, and the intended restoration of BHOWAYEL DEO, their representative. But his reinstatement having never taken place, he is allowed to live in the pergunnah, on a pension, which he receives from government; and the settlement has been made with such of his family, and of those Rajahs of Beleeah, who preceded it, as could make out pretensions to permanent tenures or estates; and where such pretensions could not be established, or were not preferred, the settlement has taken place with the Mokuddums, or those of the principal ryots who had long paid the revenue of their present tenures, being the villages of which they are inhabitants; it being meant that these Mokuddumy tenures should be considered equally permanent, and be liable to the same conditions as those of the zemindars: and where neither of these descriptions of persons, could be found, the villages were let to farmers, excepting such part of them as, for want of farmers, remained amauny." 3. "The zemindary part of the talooka of the *Mujhwa* in the pergunnah of Kuswar and sirkar of Benares, has been let out in separate portions, under seal of PHELWAUN SING, the principal talookdar, and who was acting at the same time as aumil and collector on the part of government;) and the confirmatory signature of the Resident, or of his assistant, to PHELWAUN SING himself and his relations; he being subject to the same restrictions with regard to making alterations in the settlement without the sanction of government, as are imposed on the heirs of Rajah ADIL SAH in the pergunnah of Burhur Agowrie." 4. "In the settlement of *Kernadanry*, in the pergunnah of Kuswar or Gungapoor, there is this peculiarity, that after

Clause 4.
Pergunnah Be-
leeah.

Clause 5.
Part of talooka
Mujhwa.

Clause 6.
Kernadanry.

the conclusion of it, Rajah MEHIPNARAIN object ng to pottahs being granted by the Resident to the parties with whom it was made, on the ground that the talooka in question formed part of his family zemindarry of Gungapoor; it was in consequence settled between the Rajah and the Resident, in October 1794, that although, in consideration of the Rajah's objections, the malguzars of this talooka of Kernadanry, should not receive pottahs from Government, in exchange, for the cabooleents they had entered into, The Rajah, (who is their tehseeldar or collector,) should not dispossess any of them without the sanction of the officers of Government; and in the event of complaints for exaction, that the case should be open to the same mode of enquiry, as is established for similar complaints arising in the malguzarry lands in general; so as to continue the abovementioned talooka in this respect distinct from the *neej*, or *family*, zemindarry lands of the Rajah. These family lands consist of the jaghires of *Budhoe*, and of *Kera Mungrore*, and of the Rajah's part of the pergunnah of *Kuswar* or *Gungapore*, inclusive of the talooka of *Kerowna*; and in consequence of objections offered by the Rajah, no mofussil or interior settlement has been made in them by the authority of government."

Neej zemindarry is that of Rajah Mehipnarain.

Clause 7.
Pergunnah Luckness.

5. "The pergunnah of *Luckness*, in the sirkar of Ghazeepoor, is inhabited by a race of Rajepoots, distinguished by the appellation of *Singliers*, who pay a moderate fixed revenue, (which they assess amongst themselves,) to the tehseeldar or native collector, stationed with them on the part of government, whose allowances they separately defray; and as neither the native nor the British government had interfered with the interior assessment of this pergunnah, it was not included in the general arrangements that took place at the period of the quartennial and decennial settlements."

Clause 8.
Peishcushy talooka in pergunnah Juanpoor.

6. "In the pergunnah of Juanpoor proper, and in that division of this sirkar called the *Buksheeah*, there are certain villages held by Mahomedans, in virtue of *altumgha*, *muddud-mush*, or *jag-hire* grants, from the Emperor, or from the Soubahdars of Oude; but on which a peishcush by way of quit rent, was established during the administration of the native government. These

Clause 9.
Diagrowlee.

Reg. 9, 1795.
Sec. 12.
Salt farms.

peishcushy tenures were continued at the period of the permanent settlement." 7. "That part of the tract of country called *Singrowlee*, situated to the Southward of the Soane river, which extends as far as the Belea rivulet, is tributary to the zamindarry of Benares, whilst the tract of the same district that lies beyond the Belea, pays tribute to the independent Rajah of Burdee." 8. "The districts in the sirkar of Juanpoor, in which salt is produced and manufactured, were let in farm either inclusive of the land revenue, or separately."

Reg. 1, 1795.
Sec. 9.
Settlement thus concluded, for four and ten years, reported to government.

Reg. 2, 1795.
Sec. 16 Cl. 1.
In what portions engaged for by landholders, and farmers.

Reg. 9, 1795.
Sec. 20.
Approved by Governor General in Council, except tax on weavers.

Reg. 1, 1795.
Sec. 2.
Pottahs for four years confirmed for ensuing six. And conditional assurances given to pottahdars of continuance of their lease for life.

Reg. 2, 1795.
Sec. 21.
This privilege declined by some, at end of 1200 Fusly, and other tenures vacant from different causes.

Instructions to

THE settlement for the entire province of Benares, was concluded, as described, partly for four, and partly for ten years, from the commencement of the Fusly year 1197; and finally reported to government on the 25th November 1790. It consisted of engagements with talookdars and zemindars for about eight-twelfths of the whole country; and of leases to farmers for about three-twelfths; whilst the remaining twelfth was left under *amany* (or *khas*) management, in consequence of no persons being found to engage immediately for the revenue of this portion. On the 11th February, 1791, the Governor General in Council approved the settlement, with an exception to the house tax levied from weavers, under the denomination of *khergui*, which was ordered to be abolished; and ordered, "that the four years pottahs, be confirmed for the ensuing six; so as to reduce the whole to a ten years settlement; also that assurances be given to the pottahholders, that as long as they continue to pay their revenue, stipulated in the last year of the increase, as specified in the several pottahs, they shall not be liable to any further demand during their lives." But on the expiration of the quinquennial settlement, at the end of 1200 Fusly, several farmers and some of the landholders, who had engaged for too high a revenue, declined the privilege offered to them of retaining their leases for life. The death of renters, abuses practised by the aumils, and the over assessment of some places, had likewise occasioned vacancies in other tenures. The Resident was therefore instructed by government,

Resident for re-
assessment of
jumma in such
cases.

government, on the 19th September 1794, “ to re-adjust the settlement of the lands which had been included in these leases, by restoring such of the renters as appeared to have been unduly dispossessed; by admitting the heirs of parties deceased; or re-instating the antient zemindars, in lands relinquished by farmers, or which had remained amauuny in the hands of the aumils; and finally, by adopting means to improve the cultivation, preparatory to issuing new permanent leases (which were accordingly granted.) to the landholders and farmers in the pergunnahs of *Neroun*, *Dhoos*, and *Chownsa*, the settlements made in which places in 1197, had in general failed, owing to the lands being too highly assessed, and to drought, and other calamities of season. The settlement of *Suktes Ghur* also, being in a similar predicament, was renewed by the Resident in the month of October 1792; and the experience of several years having evinced that some part of the pergunnah of *Zemanea*, in the sirkar of Ghazeepoor, had been too highly assessed, adequate abatements were in consequence allowed.”

With this amendment of the assessment fixed in 1197 Fusly, it was declared by the Governor General in Council, in Section 3, Regulation 1, 1795, “ that the jumma payable according to the quartennial and decennial pottahs shall remain fixed for ever; so that no sum exceeding the amount specified as the highest annual jumma, payable according to the said pottahs, shall ever be required of those pottahdars, or holders of pottahs, who have hitherto paid up their revenue, and observed all the other conditions specified in their pottahs; nor of those who may hereafter become entitled to hold or succeed to such pottahs; so long as they shall continue to discharge the amount, and to perform the conditions, therein stipulated. This declaration was, at the same time, accompanied with the following reservations: 1. “ The holders of the pottahs are to be considered as bound to conform to all regulations regarding them, the preservation of the rights of the putteedars, or sharers in estates, the ryots or the administration of

justice

Regn. 1795.
Sect. 3 Cl. 1.
Declaration of
fixed assessment
in perpetuity.

Clause 2.
Reservations.

Clause 3.
Holders of pottahs to conform to all regulations published in the prescribed form.

Clause 4.
Succession to
zemindaries
how to take
place.

Clause 5.
In what case a
zemindar dis-
possessed before
the 1st July
1775, to be res-
tored to his
estate; and on
what condi-
tions.

Clause 6.
Rule for trans-
fer of settle-
ment from far-
mers to zem-
indars, who have
been in posses-
sion since the
1st July 1775.

Indemnification
to be made to
farmers in such
cases.

justice, which have been, or may be passed by the Governor General in Council, and printed and published in the manner prescribed in Regulation 41, 1793." 2. "The succession to zemindaries is to take place according to the established laws, rules, and customs of the country, as provided for in the regulations passed, or which may be enacted, for the province of Benares, and printed and published in the manner prescribed in Regulation 41, 1793. 3. "In the event of the death of a farmer, holding a pottah for lands, the zemindar of which was dispossessed previous to the 1st July 1775, the date of the cession of the province of Benares to the Company, or of the pottah of any such farmer becoming otherwise void, it has been determined, with the concurrence of the Rajah of Benares, that such zemindar, or his heir or heirs, shall be restored to the estate, provided he or they shall agree to pay the fixed jumma assessed on the lands, agreeably to such pottah, and to conform to all regulations for the collection of the revenue, the administration of justice, or other matters, which may be printed and published in the manner prescribed in Regulation 41, 1793. In such case the estate shall be made over to him or them, in preference to its being leased to a new farmer, or to the heir of the last pottah holder." 4. "According to the well known rule prevailing in the province, those zemindars also who have had possession of their estates since the 1st of July 1775, but who were nevertheless excluded at the forming of the permanent settlement, may recover possession of their estates from the farmers, who may hold pottahs for, and be in the actual management of them, by proving their intermediate possession in the court of dewanny adawlut. The courts of dewanny adawlut are accordingly to decree the restoration of any such zemindar so claiming, on proof being made by him of such intermediate possession; but every such decree is to provide for such zemindar's previously indemnifying the farmer for the loss which he may prove, to the satisfaction of the court, to have sustained in consequence of his having held the lands under the pottah of Government, and the court is accordingly

ordingly to enquire into, and decide upon such loss, and to cause the amount to be made good to the farmer, before the zemindar is re-instated."

FURTHER reservations, corresponding with those already stated in the proclamation addressed to the landholders of Bengal, Behar, and Orissa, on the 22d March, 1793, with a declaration "of rights preserved to the proprietors of landed estates, under the permanent settlement of the land revenue, in the province of Benares," were promulgated in Regulation 27, 1795, enacted at the same time with Regulation 1, of that year; viz. on the 27th March, 1795. Sections 2, 3, 4, 5, 6, and 7, of this regulation, being nearly the same, as Sections 5, 6, 7, 8, 9, and 10, of Regulation 1, 1793, cited at length, under the head of *Assessment of Bengal, Behar, and Orissa*, it will be sufficient to note in what respects they differ: Section 2, Regulation 27, 1795, declaring the jumma; which may be hereafter agreed to by proprietors, whose lands are held *amany*, or let in farm, to be fixed for ever, agrees in substance with Section 5, Regulation 1, 1793; providing further, that "in the event of any farmer or farmers, forfeiting his or their leases, by falling in arrear or otherwise, the proprietors of land; (let in farm in consequence of their not engaging for the assessment,) shall be re-instated, on their agreeing to the payment of the assessment which may be required of them; or, according to the nature of the case, to the conditions with respect to the arrears due, specified in the first Clause of Section 18, Regulation 6, 1795;" viz. "Where arrears shall be due by farmers near the close of the year, the recovery of which, either through themselves or their sureties, shall not have been effected by its expiration; the collector, with the sanction of the Board of Revenue, is to have recourse, in the first instance, to the antient zemindars of the village or talooka in question; who, on paying up the farmer's balance, either immediately, or on finding security to pay it by instalments in the course of the ensuing year, shall be re-instated in their zemindarry."

Further reservations, with declaration of rights of landholders in Reg. 27, 1795.

What sections of this regulation correspond nearly with those of Regulation 1, 1793.

Reg. 22, 1795, Sec. 2.

Jumma of lands held *amany*, or let in farm, which may be hereafter agreed to by proprietors, declared fixed for ever.

With provision for eventual forfeiture of farms.

Reg. 6, 1795, Sec. 18, Cl. 1. And for reinstatement of proprietors on discharge of arrears.

Reg. 27, 1795:
Sections 3, and 4.

Jumma at which lands belonging to government may be transferred, fixed for ever.

And proprietors of land at liberty to dispose of their estates without sanction of government.

Section 4. Proprietors of land exhorted to improve their estates, to pay their revenue punctually; and to observe good faith and moderation towards their putteedars, under-renters, and ryots.

What parts of Sec. 7, Reg. 1, 1793, omitted in proclamation for Calcutta.

Reg. 2, 1795.
Sec. 26.

Right of government to dispose of lands for recovery of balances; though not yet exercised.

Reg. 5, 1795.

Sec. 35. Provision for sales of encroachment by rivers.

SECTION 3, Regulation 27, 1795, declaring the jumma, at which lands belonging to government may be transferred to individuals, fixed for ever, and **Section 6**, declaring talookdars, zemindars, and other actual proprietors of land entitled to dispose of them, without the sanction of government, so that the transfer be conformable to law, and not contrary to any regulation in force, correspond exactly with **Sections 6, and 9, of Regulation 1, 1793**. In **Section 4, of Regulation 27, 1795**, the proprietors of land in Benares are exhorted to improve their estates, under the certainty of enjoying the fruits of their industry; to pay their revenue with punctuality; and to conduct themselves with good faith and moderation towards their putteedars, under-renters, and ryots, in return for the benefits conferred upon them, to the same effect, as set forth in part of **Section 7, Regulation 1, 1793**. But the introduction to this section, which had more particular reference to past usage in the lower provinces, is omitted; as well as the concluding declaration, that no claims for remissions, or suspensions, on account of drought, inundation, or other calamity of season, would be attended to; and that a sale of the defaulter's land would invariably take place to make good any arrear. The reason of this omission will appear from the rules for collecting the public revenue in the province of Benares, stated under a subsequent head. But it may here be observed, in the words of **Section 26, Regulation 2, 1795**. "The right of government to dispose of landed property at public sale for the recovery of balance of revenue, is established by the tenor of the engagements of the zemindars; though in consideration of local usages in that respect, in the province of Benares, no such sales have hitherto taken place." With reference to the same usages, and to the frequent encroachments upon land by the Ganges and other large rivers, it is further provided by **Section 35, Regulation 5, 1795**, that "in cases in which, since the conclusion of the settlement, the rivers may have carried away so much of the ground included in the engagements of any zemindar, or farmer, as to disable him from paying the stipulated revenue

ASSESSMENT OF BENARES.

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revenue, the collector, after minute enquiry, is to report the circumstances, and the amount of the deficiency thereby occasioned, to the Board of Revenue, through whom the orders of the Governor General in Council will be issued to the collector, for affording such relief to the party or parties, as may appear necessary."

THE first clause of Section 5, Regulation 27, 1795, reserving to government full power to enact any regulations deemed necessary for the protection and welfare of putteedars, under-renters, ryots, and other cultivators of the soil; the second clause of the same section, declaring all internal duties, which may be hereafter established, to belong exclusively to government; and the third clause, expressing the right of government to any future assessment upon lakheraj lands, held under invalid titles; correspond with the first three clauses of Section 8, Regulation 1, 1793. But the landholders in the province of Benares, not having been exonerated from the charge of the police, as they were in the lower provinces; and the jurisdiction of the court of wards not having been extended to Benares; the following clauses were substituted, in Regulation 27, 1795, for the fourth and fifth of the section abovementioned. *Fourth.* "The jumma of those zemindars, talookdars, and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, the produce of any lands set apart for the maintenance of *pheris, passees, ghorites*, or other descriptions of watchmen, employed in services of police; and the Governor General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the peace, and to appoint officers on the part of government, to perform the duties relating to the police, now required from them. The Governor General in Council however declares, that the produce of lands which may, in that case, be resumed, will be

Reg. 27, 1795
Sec. 5, Cl. 1.
3.
Power reserved
to government
of enacting re-
gulations for
protection of
putteedars, un-
der-renters,
and cultivators.
With exclusive
right to all in-
ternal duties
and revenue
that may be
levied upon
lakheraj lands
held under in-
valid titles.

"Clause 4:
Jumma fixed
exclusive of
lands approp-
riated to main-
tenance of
watchmen em-
ployed in the
police."

Which may
be resumed at
discretion of
government."

Payable.

LAND REVENUE

be appropriated to no other purpose but that of defraying the expense of the police; or providing a maintenance for the *pheris*, *passees*, *ghoriles*, or other descriptions of watchmen, employed therein." *Fifth*. "Nothing in this, or any other regulation, shall be construed to render the lands, of which there are dispossessed proprietors, liable to sale, for any arrears which have accrued, or may accrue, on the jumma that has been or may be assessed upon their lands, under the regulations for the quartenial and decennial settlements; provided, that such arrears have accrued, or may accrue, during the time that they have been, or may be, dispossessed of the management of their lands. It is to be understood, however, that whenever all, or any, of the descriptions of dispossessed landholders, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their dispossession no longer existing, or of the Governor General in Council dispensing with, altering, or abolishing those regulations, the lands of such proprietors, will be held responsible for the payment of the jumma that has been or may be assessed upon them in perpetuity, from the time that the management may devolve upon them."

THE rules for apportioning the fixed jumma, upon portions of estates disposed of by public or private sale, or in cases of division of a joint estate between two or more proprietors, which are contained in Section 7, Regulation 27, 1795, are the same with those prescribed in Section 10, Regulation 1, 1793. But the custom of forming dependent talooks, to be held of the zemindar as an under-tenure, not prevailing in Benares, the clause respecting tenures of this description, in the section last-mentioned, was not included in the rule for that province. With reference, however, to the exclusion of certain village zemindars, dispossessed before July 1775, from the permanent settlement, until they could be admitted under the provisions made for that purpose, after the Rajah of Benares had relinquished his objections, the following special declaration was added in Section 8, Regulation 27, 1795.

"Nothing

—“ Nothing in this or any other regulation, passed previous to, or on, this date, shall be construed to authorize the public sale of the lands in any talookdarry, or zemindarry, whilst the party or parties, claiming the same as the antient proprietors, continue to stand excluded under the limitation specified in Section 12, Regulation 2, 1795; or until, by the operation of the repeal of that limitation, under Section 3, Regulation 1, 1795, or in pursuance of the consequent provision in Section 18, Regulation 6, 1795, or some other consonant rule, made, or that shall hereafter be made, in consequence of the said repeal, such party or parties, shall have been restored to the management of the revenue of his or their respective talookadarries, or zemindarries.” It was further declared, for the sake of precision, in the concluding section of Regulation 27, 1795, “ that wherever the term *proprietor*, or *actual proprietor*, of any talook, zemindarry, village, or other land paying revenue to government, is or may be used, in this or any other regulation extending to the province of Benares, and printed and published in the manner prescribed in Regulation 41, 1793, such term is to be considered as applying to the person, or persons, holding under each separate lease, or pottah, from government; (whether he or they possess the entire proprietary right in such lands, or shall be only the principal amongst the other putteedars, distinct or common;) whose name or names standing inserted in such pottahs, and who having executed the counterpart caboolcuts, has or have thereby become immediately responsible to government, as well for the payment of the revenue, as for the performance of the other stipulations and conditions contained in the quartennial and decennial deeds of settlement; without however affecting or prejudicing the rights, distinct or common, of any putteedars or sharers, where any such shall exist; and which, in case of dispute with the pottahdars, or holders of the pottahs, are to be determined by the courts of adawlut, according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice; and the laws, customs, and usages of the district, as referred to in Regu-

Section 27.
Definition of
term “proprietor” in regula-
tions for Benares.
rev.

Applied to the
landholders
whose names are
inserted in the
pottahs from
government.

But without
affecting the
rights of any
other sharers.

Reg. 2, 1795.
Sec. 20.
Responsibility
and privilege of
putteedars in
whose name the deed of
settlement has
been made out.

tion 2, 1795; as far as regards the parties in question." The provisions of this regulation, which relate to the rights of putteedars, have been stated; except the twenty-fifth section, in the following terms. "For determining questions concerning lands between putteedars or brethren, and partners, inheriting and being, or pretending to be, entitled to joint or distinct proportions of one zemindarry, it has been observed as a general rule, since the conclusion of the permanent settlement, to consider as superior, and immediately responsible to government, the person or persons amongst such putteedars, in whose name or names the government's pottah has been made out; and to continue the other putteedars, or partners, in such situation as they shall have stood in, since the Fussily year 1197; leaving them, if dissatisfied with such order, to prosecute in the adawlat for any further claims."

Reg. 2, 1795.
Sec. 19.
Reasons for
placing village
zemindars under
aumils; with rule to
prevent exactions
from them.

Section 24.
Option given
to them to become
huzooris, on giving
security.

In consideration of the habits prevalent amongst the newly restored body of zemindars on their first re-instatement, it was thought advisable to continue them, at least for a period, under the superintendency of the aumil of government, both in respect to the police, and the payment of the revenue. But at the same time to provide against exactions being made from them by the aumils, it was, in addition to a penalty of three times the amount, declared a rule, "that all persons holding pottahs of government who might prove any oppression against their respective aumils, should thereupon have the option of becoming huzooris, that is, to pay their own revenue directly to the public treasury, without the intervention in any shape of the agency of the aumil." For the more effectual protection and security of the landholders and farmers placed under aumils, an option of becoming huzooris, from the beginning of the Fussily year 1202, was given, by a proclamation dated 3d October 1794, "to all such pottah-holders, as should previously enter into *mall, fial*, and *hazir-zaminy*, or security for the punctual discharge of their revenue, for their peaceable deportment, and for their appearance, whenever their attendance may be required;" to enable them to procure which, they were allowed

allowed "one moiety of the aumil's *dehlyek* and *tharray*, on the amount of the revenue payable by them." From this option, (though not from the original rule in cases of proved oppression) were excepted the family mehals of Rajah M^{EN}HNAAIN, before mentioned, viz. part of pergunnah *Kuswar*, or *Gungapore*, inclusive of the talook of *Kerouna*, besides the jagheers of *Budhooe* and *Kera Mungrore*; and also the mehals of which he holds the aumildarry, viz. pergunnah *Rādthopoor*, the talooka of *Jahloopoor*; and some villages near the city of Benares called the *dehaut amrunut*. This exception, made with just regard to the personal claims of the Rajah of Benares, and in adherence to the spirit of the agreement entered into with him on the 27th October 1791, must be considered still in force under the provisions of Regulation 7, 1807, whereby, (as already adverted to in the preceding section) for the relief of zemindars entitled to become huzoory, from a demand of security which was judged unnecessary, it is enacted that "such part of Section 24, Regulation 2, 1795, and of any other section of that or of any other regulation in force, in the province of Benares, as requires that security shall be taken from the zemindars on their becoming huzoory, either for their personal appearance, or for their peaceable deportment, or for the punctual discharge of their revenue, is rescinded; and no such security shall be required or taken in future, the lands themselves being deemed sufficient security for the public revenue, and the zemindars being of course amenable to the general laws of the country, for their peaceable and proper demeanour. Such part of Section 24, Regulation 2, 1795, as directs, that the zemindars in the province of Benares shall be entitled to a moiety of the aumil's *dehlyek* and *tharray*, to enable them to furnish the said security, is likewise rescinded. Whenever any zemindar shall become huzoory after the promulgation of this regulation, he shall pay the amount of the revenue specified in the engagements contracted by him with government, directly to the treasury of the collector; and shall not be considered to have any claim upon government on account of the moiety of the

Except in family mehals of Rajah of Benares, and in his aumildarry mehals.

Further provisions, dispensing with security required.

Reg. 7, 1807, Sec. 2. Such parts of Section 24, Reg. 2, 1795, or any other regulation relating to security for zemindars in Benares, on becoming huzoory, rescinded.

Section 2. Zemindars on becoming huzoory, shall have no claim to any part of the *dehlyek* and *tharray*.

dehlyek

Section 4:
Zemindars desirous of becoming huzooris, to apply to the collector, who shall comply with the application, if no objection exists.

dehyek and *bhurray*, or on account of any part thereof. Whenever any zemindar may be desirous of paying his revenue directly to the collector's treasury, the collector shall immediately comply with the application, unless he may be of opinion, that in consequence of the situation of the lands, or of other circumstances, public inconvenience will be experienced from that arrangement; in which case, he shall furnish the Board of Revenue with the necessary report on the subject; who are empowered to determine, whether the zemindar shall in future pay his revenue directly to the treasury of the collector, or through the medium of the *tehseeldar*, as heretofore.

Functions and powers of aumils, afterwards called *tehseeldars*, will be stated under next head.

Reg. 2. 1795, Section 23. Rule for guidance of aumils, and canoongoes, passed in 1794.

THE functions and powers of the aumils, afterwards called *tehseeldars*, or native collectors, will be more properly stated under the next head of this Analysis; but it may be observed in this place, that in the beginning of the *Fussili* year 1202, a circular order, dated the 1st November 1794, was issued to all the aumils, "prohibiting them under penalty of dismission from their aumildarries, from displacing or dispossessing any person holding a pottah from government, without the assent of the Resident;" and on the 20th of July 1795, circular instructions were transmitted to the canoongoes, enjoining them "to report without delay, the death of all such pottah-holders, that no lands might remain amauany under the aumil, without the knowledge of government."

Section 27
Rule for the ascertainment of the effects of lands kept amauy.

It may further be here remarked, that although, at the period of the settlement formed in 1197, the aumils engaged to collect only according the jumma specified in the pottahs issued to the talookdars and village zemindars, and farmers; and to pay in the whole amount thereof to government, after deducting the *dehyek*, and half *bhurray*, (being together eleven and a half per cent,) there were "several spots of ground, and villages, of which no fixed settlement having been made, the collection of the *tushkhees*, or ascertained funds which the canoongoes estimated to be realizable therefrom, was entrusted to the aumils. These funds of course varied during the period that elapsed after the conclusion

sion of the settlement; and several of the aumils, on the expiration of their quinquennial leases, at the close of the year 1200, claimed and received deductions from government for alleged deficiencies in the funds of those amauny villages; whilst on the other hand, where the actual had exceeded the estimated receipts, it was presumable that the aumils, or other officers, had appropriated the surplus." From these considerations, and as the funds in the amauny, or kham, villages appertained altogether to government, (the aumils being entitled only to their deh-yek and bhurace) the Resident, on the 12th of January 1795, published an order, "that from the beginning of the Fussily year 1202, the tushkhees of the *amauny kham*, or *cutcha* villages, in every pergunnah, was to be ascertained by aumeens, or other persons empowered for that purpose, on the part of government; and that the amount of the funds, after deducting the deh-yek and bhurace, was to be paid by the aumils to government." Aumeens were accordingly deputed "to ascertain the state of these lands, with instructions to summon the putwarries of every village, and in the presence of the canongoes, and of the officers of the aumil, to ascertain the tushkhees, or assessable amount on each village and spot, then held amauny, in conformity to the *rye*, or rates, of 1187; and afterwards to prepare, and bring with them, the state of the jummaundy of each village, under the attestation of the canongoe, the signature of the putwarries, and the counter signature of the officers of the aumils; that the payments of the aumils to government might be regulated accordingly." The aumeens were likewise instructed, "that if, in the course of their enquiries, it should appear, that any of the aumils had granted pottahs to their dependants, in any of these amauny lands, at lower rates than those of the pergunnah, or division, in which they might be situated, such pottahs were to be declared null and void; the aumils not having been empowered to dispose of any part of the revenue funds; but since the settlement in 1197 had been merely *tehseeldaran-nishandar*, or responsible collectors."

Regulation 5,
1795, Section 7,
Clause 4.
Rule for future
settlement of
amauny, and
farmed lands.

THE only further part of the regulations, which it appears requisite to notice under the head of the Benares settlement, is the following general rule, prescribed to the collector, in the fourth Clause of Section 7, Regulation 5, 1795; in making the future settlement of amauny and farmed estates, viz. "in forming the settlement of all lands held amauny, the public revenue to be paid to Government, is to be fixed according to the actual *joydaad*, or existing funds, arising from the lands in cultivation, after deducting ten per cent from such funds, for the charges of management, and the profits of the party with whom the settlement may be made; and adding, where there is much uncultivated ground within the limits of the lands to be included in the settlement, a moderate *russud*, or progressive increase, for the four or five first years of it. The settlement of lands let in farm, to be made on the death of the farmer, will regard only the determination respecting the person who is to succeed to the lease; and is not to affect the amount of the public revenue assessed on the lands included in the lease; which, in all farmed estates, is to continue unalterable, as it may have been fixed by the rules regarding the permanent settlement concluded in, or subsequent to, the Fusily year 1197. But if the parties entitled to re-enter into possession as zemindars, on the avoidance of the lease of any farmer, under the operation of Section 3, Regulation 1, 1795, shall not accept of reinstatement on condition of paying the existing fixed jumma, they shall not be entitled to be restored in future, unless they agree to the payment of a jumma, to be adjusted agreeably to the rules above prescribed, for forming the settlement of amauny lands in general, or such other conditions as shall be prescribed by the Governor General in Council."



3. ASSESSMENT OF UPPER PROVINCES.

THESE provinces consist of territory ceded to the East India Company by the Newab Vizeer, in lieu of subsidy, on the 10th day of November, 1801, and since formed into zillahs Moradabad, Bareilly, Etawah, Furruckabad, Cawnpore, Allahabad, and Goruckpore: of the district of Bundelcund, ceded by the Peshwa, instead of subsidy, on the 16th December, 1803; and of the conquered territory between the Ganges and Jumna rivers, or situate on the right bank of the latter, which was ceded by DOULUT RAO SENDHERRA, on the 30th December, 1803, and now constitutes zillahs Scharunpore, (Northern and Southern Divisions,) Allyghur, and Agra, exclusive of the city of Dehli, and a contiguous tract of country, appropriated to the support of the Moghul Royal Family; which, before this appropriation of it, had been formed into an additional zillah, called Paniput.* The districts first mentioned are described in the Regulations of 1803, and subsequent years, as "the provinces ceded by the Newab Vizeer:" those ceded by DOULUT RAO are denominated, in some of the regulations, "the conquered provinces, situated within the Doab, and on the right bank of the river Jumna;" and in Regulation 1, 1809, and other regulations since enacted, the whole the ceded and conquered provinces, situate to the north and west of the province of Benares (except the city of Dehli and its vicinity, assigned as abovementioned) have been distinguished from the lower provinces of Bengal, Behar, and Orissa, as well as from the intermediate province of Benares, by the designation of *the upper provinces*.

What territory and districts are included in the provinces referred to under this head.

What districts are described in the regulations as "the provinces ceded by the Newab Vizeer."

What districts are denominated "the conquered provinces within the Doab, and on the right bank of the river Jumna."

And what are designated in the regulations as "the upper provinces."

THE territory ceded by the Newab Vizeer in November 1801, and stated in the schedule accompanying the treaty with him to

To whom the administration of territory was

* See notes to pages 18 and 584, of Vol. 1. Also Regulation 9, 1804, Section 3; and Regulation 8, 1805, Section 4.

ed by the Vizeer, in 1801, was committed in the first instance.

A more regular system afterwards introduced under regulations of 24th March 1803.

What arrangements in the Revenue Department were made by the Lieutenant Governor, and Board of Commissioners.

History of the Vizeer's administration in the provinces.

produce a gross revenue of Lucknow sicca rupees 1,35,23,474, was placed, in the first instance, under charge of a Lieutenant Governor, and Board of Commissioners, to whom was committed the general administration of the country, subject to the control of the Governor General in Council, until sufficient local information could be obtained to admit of the introduction of a more regular and permanent system. This however took place in the early part of 1803, under regulations dated the 24th March of that year, which, as far as they relate to the administration of civil and criminal justice, have been already detailed. Those which refer to the settlement of the revenue will now be specified: but it is proper to mention previously the arrangements in the Revenue Department made by the Lieutenant Governor and Board of Commissioners; and for this purpose I shall avail myself of an authoritative report,* founded on a summary delivered by the Honorable HENRY WELLESLEY, when he resigned his office of Lieutenant Governor. "The collection of the land revenue for "the year in which possession was received from the Vizeer's officers proceeded on the existing engagements with the landholders and aumils, or native collectors; but on the expiration of that year the foundation was laid for a permanent assessment by the conclusion of a settlement for three years with the landholders, in all instances where it was found practicable on the terms proposed. In other cases the lands were let to farm, and in a few instances the collections were left to be made from the cultivators by the officers of government. These engagements for the land revenue proceeded in some instances on *russud*, or annual augmentation, founded on the expectation of increased cultivation; and the increase thus obtained for the third year of the settlement, over the estimate at which the lands had been received in commutation of the subsidy, appears to have been Lucknow sicca rupees 32,99,589." I subjoin, from the same authority, a description of the Vizeer's administration, before his

* Fifth report of the select committee of the House of Commons on the affairs of the East India Company, 28th July 1842.

cession of the provinces referred to; and of the state of landed property in them when they were transferred to the Company.

and state of
landed property
in them at the
time of cession.

“ The Newab Vizcer having divided his territorial possessions
“ among amils, or native collectors, who entered into agree-
“ ments for the payment of a stipulated amount of revenue,
“ committed the entire authority and controul, civil and mili-
“ tary, over the inhabitants, to their discretion. The landholders
“ were chiefly of the class which has been described in Bena-
“ res,* or village zemindars; but there were others of higher rank
“ who bore the title of Rajah, and appear rather in the condition
“ of tributaries, than of subjects. While these persons discharged
“ their assessment of revenue, they were left in the exercise of
“ absolute dominion within their limits. They possessed strong-
“ holds garrisoned by their adherents; and not unfrequently with-
“ held the revenue, till compelled to the payment of it, or to a
“ compromise, by the approach of a military force.”

ON the 14th July 1802, corresponding with the 29th Asarh of the Fusly year 1209, a proclamation was issued by the Lieutenant Governor and Board of Commissioners, in virtue of the powers vested in them, to the following effect:—

Regulation 25,
1803, Section
29.
Proclamation
issued by Lieu-
tenant Govern-
or and Board
of Commission-
ers, on the 14th
July 1802.

“ WHEREAS it is the intention of the British Government to adopt, at the expiration of the present Fussily year 1209, such a plan for the settlement of the landed revenue of the ceded provinces, as may be most conducive to the prosperity of the country, and to the happiness of the inhabitants; and whereas it is of the utmost consequence to the success of the measure, as well as

* THE description here alluded to, in the fifth report of the select committee, is as follows. “ The village zemindar of Benares, appears to be the *Micudjum* found in certain parts of Bahar; and the *Potail* of the Carnatic; both of whom are head men of villages; who are responsible to the government, for maintaining and promoting the cultivation of the land; and who, in the first mentioned portion of territory, possessed the right of disposing of their situations, by sale or gift, to others who might enter upon them under the same obligations of service, and might enjoy the same advantages as their predecessors, either in a distinct share of the produce, or in having the settlement, or farm of the village, made with them, on such terms as might be agreed to on the part of the government.”

to the interests of the zemindars, talookdars, and all others concerned, that the nature and terms thereof should be made known as early as possible ;”

“ NOTICE IS HEREBY GIVEN,”

1st. “ At the commencement of the Fussily year 1210, the sayer of every denomination will be separated from the māl, or land revenue, and a settlement for the latter only concluded, in all practicable cases, with the zemindars or other actual proprietors of the soil, (unless when disqualified by notoriously bad character, or other good and sufficient cause) for a period of three years, at a fixed, equal, annual jumma; it being understood that such zemindars as are *huzoor tehseel*, or allowed to pay their kists immediately to the collector of the zillah, are to be responsible for the police of their respective zemindarries.”

2dly. “ At the expiration of the three years, another settlement will again be made with the same persons, (if willing to engage) for three years, at a fixed, equal, annual jumma; which jumma shall be formed by taking the difference between the annual amount of the first lease, and the actual yearly produce of the land at the time of its expiration, and adding two thirds of such difference to the annual rent of the first lease.”

3dly. “ At the expiration of the sixth year, a new settlement will be made with the same persons, (if willing to engage) for a further period of four years, at a fixed, equal, annual jumma, formed by adding to the annual rent of the second three years three-fourths of the net increase of revenue during any one year of that period.”

4thly. “ At the end of these ten years, a permanent settlement will be concluded with the same persons, (if willing to engage, and if no others who have a better claim, shall come forward,) for such lands as may be in a sufficiently improved

state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable."

5thly. "THOSE zemindars who may decline entering into engagements for their estates, as also those whose offers may be rejected by Government, shall, for the present, continue to be allowed the same *nankar* which they have hitherto received from the Newab Vizier."

6thly. "WITH respect to such zemindaries as may have been mortgaged, or transferred on security, and possession thereof actually given to the mortgagees or sureties, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor, leaving the latter to obtain possession, either by private settlement of accounts, or by a judicial process."

7thly. "THE settlement of such small talooks or estates as may be nominally included in large zemindaries, in the sudder jumma of which their jumma may be comprehended, will be made separately and distinctly, with the proprietor of such small estates, and they will be allowed to pay their revenue directly to the *tehseldars* on the part of Government."

8thly. "WITH respect to such lands as are without proprietors, or the proprietors of which decline entering into engagements, a village settlement shall be made, for three years, at a fixed, equal, annual jumma; and a preference will be given to the *mojudums*, *purdhauns*, or respectable *ryots* of the several villages."

9thly. "IN the event of neither proprietors nor farmers being forthcoming, such lands as are in that predicament will be held *khaus*."

"10thly. "ALL authorized *abwabs* are to be consolidated, and

and incorporated with the land-rent, and expressed in the pottahs and cabooleuts; and nothing, but what is there expressed, shall be collected from the ryots, or under-renters.

11thly. "ALL persons, who may enter into engagements for the settlement, must bind themselves, by written obligations, to grant pottahs of the above description, to their ryots and under-renters."

12thly. "ALL persons, who may enter into engagements with Government, must previously give security for the fulfilment thereof, in an amount equal to one-fourth of their jumma."

Additional instructions issued by commissioners on subjects of above proclamation.

Reg 25, 1803, Section 30, Cl. 3.
Qualification of rule in first clause of proclamation.

Class 2.
Rule for deduction of nankar, in settlements with the landholders.

Class 1.
Modification of fifth clause of proclamation, respecting nankar of landholders.

THE following additional instructions were subsequently issued by the commissioners on the subjects of the above proclamation. 1. The several collectors in the ceded provinces were authorized, under date the 28th August 1802, "to deviate from the rule prescribed in the first clause of the foregoing proclamation; and to conclude the settlement, for the first lease of three years, at a fair and equitable annual increase, instead of a fixed, equal, annual jumma, in instances in which, from calamity of season, the landholders might be unwilling to engage for their lands at such a jumma, for the first year of the lease, as Government would have been otherwise entitled to demand, with reference to the probable resources and produce of the lands during the whole of the lease." 2. By another order, dated 13th August, 1802, the collectors were instructed, "in concluding the settlement of their respective zillahs for the first lease of three years, to regulate the allowance of nankar, to such of the zemindars as might engage for their land, by deducting the amount of the nankar from the jumma, and taking engagements from the zemindars for the net residue, provided that the deduction for nankar should not exceed ten per cent on the net jumma." 3. In modification of the fifth clause of the proclamation, dated 14th July, 1802, it was subsequently determined, "that the rate of allowance for nankar should

should not, in either of the cases therein stated, exceed ten per cent on the jumma of the estate." 4. On the 30th September, 1802, a discretion was "vested in the landholders to grant small portions of land, exempt from the payment of revenue, for the support of their village watchmen, whenever they shall prefer making such grants to paying the watchmen a pecuniary allowance." It was, at the same time, declared, that such grants would be "resumable on the death or removal of the persons to whom they may be made;" and that the lands "thus exempted from the payment of rent, as well as any other lands held by public officers or private servants exempt from rent, in lieu of wages, and not forming part of any authorized lakheraje grants or tenures, shall be considered to form a component part of the malguzary lands of the estates to which they may respectively appertain, for the revenue assessed upon which they will consequently be held responsible, in common with all other malguzary lands included therein;"

ders who might decline the assessment; or whose offers might be rejected.

Reg. 26, 1802.
Section 32.
Landholders authorized to grant chakeraj land to village watchmen, in lieu of wages. But all lands of this description held by public officers, or private servants, to be considered part of the malguzary lands of the estates.

Substance of proclamation and orders of commissioners re-enacted in Section 53, Reg. 27, 1803, with further provisions.

Reg. 27, 1803.
Sec. 53, Cl. 4.
Rule for settlement of three years, from 1810 to 1812.

THE substance of the proclamation and orders issued by the Lieutenant Governor, and Board of Commissioners, was re-enacted in Section 53, Regulation 27, 1803; with further provisions for the settlement of the ceded provinces, under the extension of the authority of the Board of Revenue to those provinces, in the following terms:—1. "The whole of the lands in the ceded provinces, shall be let on a lease for three years, viz. (from the commencement of the Fusly year 1210) at a fixed, equal, annual rent, the amount of which must be determined by such accounts as the collectors may be, at present, in possession of, or may be able hereafter to obtain; but no settlement is to be considered final, until it has received the previous sanction of the *Board of Revenue*, (altered to *the final sanction of Governor General in Council* by the third clause of Section 18, Regulation 8, 1805). In cases where, from the state of the country, it may not be practicable to conclude a settlement at a fixed, equal, annual jumma, or rent, without an obvious loss to Government, the collectors shall make the

settlement at such an annual increase during the first lease of three years, as may appear to them to be just and equitable." 2.

"The collectors shall insert the following stipulations in every engagement. *First.* At the expiration of the first lease for three years, another settlement shall be concluded for the further period of three years, at a fixed, equal, annual jumma, on the following terms; the difference shall be struck between the annual amount of the first lease, and the actual net produce of the lands at the time when it expired; and two-thirds of such difference shall be added to the annual rent of the first lease, and will become that for the second three years. *Secondly.* At the expiration of the second three years lease, new engagements shall be entered into for the further period of four years, at a fixed, equal, annual jumma, the amount of which shall be determined by adding three-fourths of the net increase of revenue, during any year of the second three years lease, to the jumma thereof. *Thirdly.* At the end of the ten years a permanent settlement shall be concluded, for such lands as may be in a state of cultivation sufficiently advanced to warrant the measure, on such terms as government may deem fair and equitable; due regard being had to the actual state of the country, and its means and capability of further improvement. *Fourthly.* Persons fulfilling their engagements for the first three years shall have the option of renewing the same for the second period on the prescribed terms, and so on for the third period."

3. "Persons holding claims to lands, for which engagements have been entered into by the present possessors, and who did not prefer their claim to regain possession of the same within six months from the date (as recorded in the several zillahs) of issuing the proclamation by the Board of Commissioners of the fourteenth of July 1802, shall not be entitled to be put in actual possession before the expiration of the first lease of three years; and claims not preferred within the aforesaid period of three years shall not entitle the claimant to regain possession until the expiration of the ten years. But this rule shall not be construed to restrict persons from preferring their

Clause 2.
At the expiration of the first, another settlement to be formed for three years.

At the expiration of the second, a further engagement to be formed for four years.

Clause 3.
Claims not preferred within six months, from issuing the proclamation of the 14th of July 1802, shall not be entitled to possession before the expiration of the first lease, and if not preferred within three years, not until the completion of the ten years.

But this rule shall not be construed to restrict persons from preferring claims.

ASSESSMENT OF UPPER PROVINCES.

their claims at any time within the ten years." 4. "In all cases, the settlement shall be made with the zemindars, provided they offer a fair and equitable jumma. Where a collector may judge it inexpedient to form a settlement with a zemindar, he shall hold proceedings on the subject, detailing at large his reasons for rejecting the claim, with every information he may have obtained relative to such zemindar; and at the same time receiving the zemindar's answer to the objections urged to his claim. The collector shall then transmit the whole of his proceedings to the Board of Revenue and await their determination on the same." 5. "Where a zemindar may decline entering into engagements for his estate, he shall be allowed, for the present, the same nankar which he may have been accustomed to receive under the government of the Newab Vizier; and, in like manner, where the Board of Revenue may reject the claim of a zemindar to enter into agreements with government, and such zemindar may have been in the receipt of nankar under the late government, such rate of nankar shall be continued to him for the present; provided, that in either case, the rate of such allowance shall not exceed the sum of ten per cent on the jumma of the estate." 6. "Where a zemindarry may have been mortgaged, or transferred as security for a debt, and actual possession given to the mortgagee or surety, the settlement shall be made with such mortgagee or surety in possession; leaving the zemindar at liberty to adjust his accounts with the actual possessor, or to sue for redress in a court of justice." 7. "In large zemindaries, containing several dependent talooks or estates, of which the actual proprietors may be now, and have been for a length of time, in undisturbed possession; the principal zemindars being no more than the immediate channel of receiving the dues of Government, the settlement shall be made with such dependent talookdars, separate and distinct from the engagement of the principal zemindars; provided however, that the talookdars shall be desirous of such separation, or the zemindars shall require it."

Clause 4.
Settlement to be made in all practicable cases with the zemindars.

Where a zemindar's proposals are rejected, case to be reported to the Board of Revenue.

Clause 5.
A zemindar declining to form a settlement is to receive the same nankar as he would have received under the Newab's Government.

The same allowance to be granted on his claim to form a settlement being rejected.

The rate of nankar not to exceed ten per cent.

Clause 6.
Settlement for zemindaries mortgaged to be made with the mortgagee.

Clause 7.
Settlement to be made with talookdars, where they have been long in possession, and the zemindar has been only the channel of receiving the dues of government.

8. "In

LAND REVENUE,

Clause 2.
Claims to the right of separation between a zemindar and talookdar, to be determined by a court of justice.

Clause 9.
Where neither a zemindar or proprietor may engage, a village settlement is to be made for three years.

Clause 10.
Security to be given equal to one-fourth of the annual engagement.

Clause 11.
Persons entering into engagements, shall be bound to grant pottahs to the ryots.

Who shall execute counter-engagements.

Clause 12.
All abwabs to be consolidated with land rents.

Clause 13.
Engagements to Government to be exclusive of sayer.

8. "In the event of the zemindar considering himself aggrieved by a separation made in conformity to the above clause, or of a talookdar being dissatisfied at not being separated from a zemindarry, agreeably to what he may have considered as his right, in either case, the party considering himself aggrieved, shall be at liberty to sue for redress in a court of justice. The collectors shall not suffer such disputed claims to interfere with, or delay the immediate conclusion of, the settlement, which, in all doubtful cases, shall be made with the person in possession." 9. "Where zemindars, or other actual proprietors, shall decline entering into engagements for their respective estates, or where there are no proprietors, a village settlement shall be made for three years; giving the preference to the mocuddams, purdhauns, or any respectable ryot of the village; but no person, not an actual proprietor, shall (so far as may be practicable) be allowed to engage for more than one assisee village, and its dakhileo or dependent villages." 10. "Persons of every description, whether proprietors or not, shall give security equal to one-fourth of the stipulated amount of their annual engagements, in default of which their proposals shall be rejected." 11. "All persons, with whom a settlement may be made, shall bind themselves by a written obligation, under such reasonable penalty as the collectors may think proper to determine, to grant pottahs or leases to the ryots and under-renters of every description, specifying the amount they are respectively to pay; and counter-engagements shall be executed by the ryots and under-renters of a similar tenor and purport." 12. "In granting pottahs to the ryots, and other under-renters, and in receiving cabooleats from them, all authorized and established abwabs shall be consolidated with the land rent, and formed into one jumma, which shall be expressed in a gross sum in the pottahs and cabooleats; and the imposing or levying new abwabs, shall be strictly prevented." 13. "All engagements entered into with Government, shall be exclusive of sayer duties, and of all other collections not connected with the land revenue, hitherto levied under the denomination of zemindarry and tannahdarry

Landlord's duties. The cabsóleuts executed by zemindars, and other actual proprietors of land; shall contain a clause, restricting them from collecting *layer* duties, or any other duties whatever, in their respective tentures. And the collectors are required to explain fully the nature and extent of this restriction, in order that persons desirous of entering into engagements, may regulate their ~~contracts~~ accordingly. Nankar, and pensions of every description, shall be paid by Government from its own treasuries; and no deductions whatever shall be admitted on these, or on any other accounts."

14. "Where neither the proprietors nor farmers may tender suitable conditions of agreement, a *khaús*, or *cawlee*, settlement shall be made with the ryots; stipulating the shares they are to get from the different kinds of land, as follows. In *politch* lands, or such as are in full cultivation, government shall receive five *passerees*, and the ryot three *passerees*. In *chunchur* lands, or such as have not been cultivated for two or three years, Government shall receive two, and the ryot six *passerees*. In *bunjer*, or waste land, Government shall receive one, and the ryot seven *passerees*. *Chunchur* lands after one, and *bunjer* lands after two years, shall be considered equal to *politch*; and further the *bunjer* lands, after one year, shall be taxed equal to *chunchur*. In the *khaús* settlement, the *bhaunt*, or *nuzzeratá*, shall be abolished; the putwary's wages shall be borne by the ryots; but the *mussaut*, or measuring and valuing the crops, shall be defrayed by Government, in consideration of the additional *passeree* received out of the *politch* crop. In all cases where crops are valued, it shall be done according to the price current of the day. In the *khaús* settlement, the ryots shall engage, that the cultivation of the lands shall not fall off, and that they shall not undertake the cultivation of new lands, until they have accomplished that of the old." 15. "The collectors shall, in all cases whatever, take under their own immediate management the settlement and collections of all the large zemindaries; and further that of all such other lands as they can superintend, without detriment to their general avocations." 16. "The proprietors of such estates as

Cabóleuts of 4
ze must be
return the
lection of layer

Nankar and
pensions to be
paid from the
treasury of govt
government.

Clause 14.
A *khaús*, or
bawlee settle-
ment to be made
where an other
can be formed.

In *politch* land
government to
receive five, and
the ryot three
passerees.
In *chunchur*,
government to
receive two, and
the ryot six.

In *bunjer*, go-
vernment to re-
ceive one, and
the ryot seven.

Chunchur after
one, and *bunjer*
after two years,
to be equal to
politch land.
Bunjer after one
year to be equal
to *chunchur*.
Bhaunt to be
abolished.
Putwarries to
be found by the
ryot, *mussaut*
by government.

Ryots to engage
to keep up the
cultivation.

Clause 16.
Collectors to
take under their
own charge the
large zeminda-
ries, and such
other lands as
they can super-
intend.

Ch. 16.
Regulations
regarding their
revenue immu-
nity to con-
sistent to
maintain a po-
lice.

Ch. 17.
Regulations from
the Government to
be paid, in
certain cases,
to the trans-
fer of the collec-
tion in place of
being received
through the me-
dium of a teh-
sildar.

Reg. 25, 1803.
Section 29.
Proclamation
of 14th July
1802, declared
to be in force,
with subsequent
explanations;
and additional
provisions.

Section 31.
Explanation of
rule prohibited
by second and
third clauses of
proclamation;
and second
clause of Sec-
tion 29, Reg. 27,
1803.

shall pay their revenues immediately into the treasury of a collector shall become responsible for entertaining an efficient police in their respective estates; subject to such general rules and regulations as may be hereafter enacted; with an exception as to cities, large towns, and principal gunges, the expenses of the police of which will be defrayed by Government." 17. "In cases where lands to a considerable amount shall be let in farm to one individual, and Government, from the report of the Board of Revenue, shall be of opinion, that the other avocations of the collector will admit of the measure, the collections from such farm shall be made immediately into the treasury of the collector; instead of being received through the medium of a tehseeldar."

By Section 29, Regulation 25, 1803, the several articles of the proclamation issued by the Lieutenant Governor and Board of Commissioners, on the 14th July 1802, were confirmed and declared to be in force, with the subsequent explanations above quoted, and the additional provisions contained in Section 53, Regulation 27, 1803. At the same time, with the view of obviating any misconstruction of the rule to be adopted in adding to the jumma a portion of the increased produce, at the commencement of the Fusly years 1213 and 1217, it was declared (by Section 31, of the above regulation) "in explanation of the second and third clauses of the proclamation issued on the 14th July 1802, as well as the second clause of Section 53, Regulation 27, 1803, that the amount of the nankar, to which the zemindars were entitled under their original engagements for the first triennial settlement, shall be deducted from the actual yearly produce of their estates at the time of the expiration of each lease; and the actual increase of the revenue, to be assessed agreeably to the clauses above mentioned, shall be calculated on the amount of the difference between the actual net produce, after such deduction, and the annual amount of the former lease. It is, at the same time, provided, that the portion of the increased produce relinquished to the zemindars, in accordance with the above mentioned clauses, on the

the formation of the successive settlements, shall be considered as precluding all claim on the part of the zemindars to any further proportion of such increased produce, on account of nankar, in addition to the deduction originally made and continued to them on this account." In consequence of doubts entertained upon the meaning and intention of the restriction contained in the third clause of Section 53, Regulation 27, 1803, it was further explained (by Section 2, Regulation 5, 1808,) that the clause in question, "comprising the substance of instructions issued on the 14th July, 1802, by the Lieutenant Governor and Board of Commissioners, in virtue of powers vested in them for that purpose, was intended to relate, in the first place, to the case, "where any person, calling himself an actual proprietor of land, should enter into engagements for the same; but it should afterwards appear that another person was the real proprietor, and willing to take the land upon the terms of the settlement." In such case, according to the express provisions of the instructions above cited, "the original engagements were to be annulled, and new ones entered into with the real proprietor, who was to be put in immediate possession;" provided he preferred his claim within six months from the publication of the proclamation of the same date, as required by a further publication issued in conformity to instructions dated 7th August, 1802. "In default of which, as declared in the said publication, the establishing of his right would not entitle the proprietor to be put in possession, at any time previous to the expiration of the first lease of three years; during the whole of which lease the lands were in such case to remain in the possession of the person with whom the settlement had been originally made." It was further provided by the said instructions that "if persons having claims to land did not prefer and prove the same within the period of the first lease of three years, the persons, with whom the existing engagements had been made, were to remain in possession until the expiration of the tenth year." The same clause of the section and regulation, as above cited, was intended to relate, in the second place, to the case

Reg. 5. 1808,
Section 2.
Explanation of
third clause of
Section 53, Re-
gulation 27,
1803.

of farmers, with whom a village settlement should be made (for lands supposed to be without proprietors) under the 7th article of the proclamation, recited in Regulation 25, 1808. And in regard to such farmers, it was provided by the instructions aforesaid, that "in like manner, and on similar conditions, farmers of villages were to be held liable to be dispossessed in the event of the actual proprietors proving their right to the land, and of their coming forward to enter into engagements for the same." It was therefore declared (by Section 3, Regulation 5, 1808,) that the third clause of Section 55, Regulation 27, 1807, together with the fourth article of the preceding clause; viz. (that "persons fulfilling their engagements for the first three years shall have the option of renewing the same for the second period, on the prescribed terms, and so on for the third period.") "so far as they relate to farmers, were intended to apply only to those estates, of which a farming or other settlement had been made with persons not being the actual proprietors, on the presumption that the lands in question were not the immediate property of any individuals, or in consequence of persons not really owners of the lands, entering into engagements as actual proprietors of the same. It consequently follows, that the restrictions in question were not intended to apply to the cases of persons, who at the conclusion of the original settlement of the ceded provinces had been acknowledged by the officers of Government as the proprietors of the estates in question, but who had been excluded from the immediate management of the lands in consequence of their refusal to accede to the jointure proposed to be assessed thereon; as under such acknowledgment these persons could have no further claim to prefer, or title to establish. This construction of the rules in question is not only conformable to the clear intent of the instructions issued by the late Board of Commissioners to the collectors, for their guidance in the formation of the settlements of the ceded provinces, and with the principles which have uniformly actuated the Government, of concluding the settlement in all practicable cases, and at the earliest period of time, with the proprietors, but likewise with specific enactments.

Section 3.
with no com-
pendent
with above ex-
planations.

enactments in other parts of the existing regulations." It was added (in Section 4, Regulation 5, 1808,) that "conformably to the foregoing construction of the existing regulations, all persons, who were acknowledged to be the actual proprietors of estates at the conclusion of the first settlement of the ceded provinces, and were excluded from the immediate management of their lands in consequence of their refusal to accede to the jumma required from them, were justly entitled to be reinstated in possession of their lands at the expiration of the first triennial lease, on their agreeing to the payment of the assessment required of them; and are in like manner entitled to the possession and management of their lands, under the same condition, at the expiration of the triennial lease now in force. It is accordingly hereby declared, that they shall be re-instated in the possession and management of their lands, at the close of the current Fussily year, on their assenting to the jumma which may now be assessed on their respective estates. No part however of this regulation shall be construed to extend to the case of the claimants of estates in the ceded provinces, whose proprietary right was disputed at the period of the conclusion of the first triennial settlement of those provinces, and who did not establish their claims in a court of justice before the expiration of the first triennial settlement. In all cases of this description, in which the lands were let to farm, the farmers are entitled, under the regulation above noticed, and the conditions of their lease, to the option of renewing the lease for the period of four years, from the commencement of the Fussily year 1216, provided that they have hitherto duly fulfilled the conditions of their engagements."

Section 4.
Further provisions conformable to the construction given of the regulations in force

Soon after the formation of the first triennial settlement, it had been declared, in Section 33, Regulation 25, 1803, that "the lands of some zemindars, independent talookdars, and other actual proprietors of land, having been held khaus, or let in farm, in consequence of their refusing to pay the assessment required of them, under the proclamation inserted in Section 39, of this re-

Reg. 25, 1803.
Section 33
Declaration to landholders, whose estates were held khaus, or let in farm, on their refusal to pay jumma required at period of first triennial settlement.

gulation, the Governor General in Council notifies to the zemindars, independent talookdars, and other actual proprietors of land, whose lands are held khaus, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which shall be required of them, in conformity to the prescribed rules for the settlement of the land revenue; and the Governor General in Council declares to the zemindars, independent talookdars, and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands, before the expiration of the period for which they have been farmed, (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer,) but that, at the expiration of that period, upon their agreeing to the payment of the assessment which shall be required of them, they shall be reinstated, under the general regulations, in the management of their estates respectively." The following notification was

Section 34.
Further notification to landholders in general, relative to a provisional assessment in perpetuity at the end of ten years.

also made by Section 34, of the same regulation. "It is well known to the zemindars, talookdars, and other descriptions of landholders, in the provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, that, from the earliest times, until the present period, the public assessment upon the lands has never been fixed; and that, according to established usage and custom, the rulers of those provinces, and their delegates, have exercised a discretionary authority in depriving them of the possession of their zemindari's, talooks, and other tenures; whereby their right of property therein has become precarious and of little value; whilst the lands, from being let in farm to strangers, or otherwise disposed of, have been impoverished; and the tenants and cultivators of the soil have been exposed to rapacity and oppression. With a view of promoting the interests of the landholders, and to enhance the value of their estates, as well as to induce them to encourage their under tenants, and to extend cultivation, under the certainty that they will enjoy the fruits of their industry and good management, the Governor General in

Council

Council has, by the rules contained in the preceding sections of this regulation, and in Section 53, Regulation 27, 1803, not only directed a settlement to be immediately made with the zemindars and other proprietors of land, who shall be willing to engage for the revenue of their respective estates; but has also declared, that a permanent assessment shall be fixed, at the end of ten years, on such lands as shall be in a state of cultivation sufficiently advanced to render it proper to fix the assessment on the same in perpetuity; and the Governor General in Council further declares that the proprietary rights of all zemindars, talookdars, and other descriptions of landholders, possessing a right of property in the lands composing their zemindaries, talooks, or other tenures, to be confirmed and established, under the authority of the British Government, in conformity to the laws and usages of the country, and to the regulations which have been, or shall be hereafter, enacted by the Governor General in Council." The above notification was accompanied by reservatory declarations, of the power of the Governor General in Council to enact such regulations as may be judged necessary for the protection and welfare of the dependent talookdars, ryots, and other cultivators of the soil; of the exclusive right of government to any internal duties hereafter established; as well as to the revenue which may be assessed upon lakheraj lands held under invalid titles; and an option to resume any allowances in land, or adjustment of jumma, for the expense of police establishments; corresponding with the first, second, third and fourth clauses of Section 8, Regulation 1, 1793, detailed under the head of *settlement of Bengal, &c.* except a variation in the fourth clause, consequent to the landholders in the ceded provinces not having been exonerated from the charge of keeping the peace, as in the lower provinces. Section 36, of the same regulation, declared the proprietors of land at liberty to dispose of their estates, by any legal mode of transfer, in the terms of Section 9, Regulation 1, 1793; with a further declaration, (taken from the fifth clause of Section 29, Regulation 7, 1799,) "that no private transfer by sale, gift, or otherwise, nor any

private

Section 35.
Powers and
rights, at the
same time, re-
ferred to go-
vernment.

Section 36.
Proprietors of
land at liberty
to dispose of their
estates under
certain reserva-
tions.

private mortgage, or other assignment, upon land assessed with the public revenue, will be admitted, in any respect, to affect the indefeasible right of government to hold all such lands answerable, in the first instance, for the public revenue assessed thereupon."

Section 37.
Rules for allot-
ting the assess-
ment upon por-
tions of estates
sold, or other-
wise transferred
or divided be-
tween sharers.

Rules for allotting the assessment on portions of estates, when disposed of at public sale, or transferred by the private act of the possessor, as well as upon shares of estates divided between joint proprietors, were also prescribed by Section 37, Regulation 25, 1803, agreeing in substance with the provisions of Section 10, Regulation 1, 1793; except that, as the land-revenue had not been permanently fixed in the ceded provinces, the lands sold or otherwise transferred in these provinces, instead of being held by the purchasers, and others, at a proportionate fixed jumma, in perpetuity, were to be held by them, "subject to the general rules in force at the time of transfer, (or, in cases of division between sharers, at the time of division) for the periodical, or permanent assessment, of the land revenue." With a similar variation, the rules contained in Section 11, Regulation 1, 1793, for adjusting the jumma of lands held khaus, or let in farm, in the event of their being disposed of by public sale, or divided between sharers, were extended to the provinces obtained from the Newab Vizier, by Section 38, Regulation 25, 1803. In the case of a public sale of lands let in farm it was however provided, that "the purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever the proprietor shall have been entitled to receive, in virtue of his or her proprietary rights, on account of the lands so purchased; and such purchaser or purchasers shall, at the expiration of the lease of the farmer, be put in possession of the lands, on his or their engaging to pay such assessment as government may deem equitable, under the general rules in force for the assessment of the land revenue."

Section 38.
Rules for ad-
justing jumma
of lands held
khaus, or let in
farm, in the e-
vent of their be-
ing sold, or di-
vided amongst
sharers.

By the second article of the proclamation issued on the 14th July 1802, as well as by the stipulations prescribed in the second clause

Article of re-
venue, demon-
strated as com-

clause of Section 53, Regulation 27, 1803, the second triennial settlement, to commence with the Fusly year 1213, was to include an increase of jumma, equal to two-thirds of the difference between the annual amount of the first settlement, and the neat yearly produce of the lands at the expiration of it, after deducting from the latter, (in pursuance of Section 31, Regulation 25, 1803,) the amount of the nankar, to which the landholders were entitled under the original engagements. But a severe drought, which prevailed in the ceded provinces during the Fusly year 1811, having subjected the landholders, farmers, and cultivators, to considerable losses; and consequently deprived them of the means of extending the cultivation, so as to afford a reasonable ground of expectation, that the produce of the lands would be adequate to the payment of the proposed increase of revenue; it was apprehended, that the demand of this increase, under such circumstances, might expose the landholders and cultivators to distress, and prove injurious to the agriculture and commerce of the country, as well as ultimately, to the interests of government. The rules above referred to, for an increase of assessment, were therefore rescinded by Section 2, Regulation 5, 1815; and the following rules were prescribed by the remaining sections of that regulation, for concluding the triennial settlement of the Fusly years 1213, 1214, and 1215. § 3. "In all instances (with the exceptions specified in Section 7,) in which the zemindars, or other landholders, or the farmers of land, with whom the settlement was concluded for the years 1210, 1211, and 1212 Fusly, or with whom a settlement shall have been concluded at any period of time during those years, shall have fulfilled their engagements with government, the settlement of their estates, or farms, for the ensuing three years 1213, 1214, and 1215 Fusly, shall be concluded with such zemindars, landholders, or farmers, at the same annual jumma as was payable by them, under the first triennial or other settlement, expiring with the current year 1212 Fusly." § 4. "All zemindars, or other landholders, or farmers of land, who shall have obtained remissions from government, on account of drought, or other

commencement of
Fusly year 1813,
under original
rules for first
and second tri-
ennial settle-
ments.

Preamble to
Regulation 5,
1805. Reasons
for relinquish-
ing the demand
of this increase.

Reg. 5, 1805,
Section 2.
Rules passed
accordingly for
the settlement
of 1213, 1214,
and 1215 Fusly.

cause, shall be considered to have fulfilled their engagements, provided they shall have discharged the whole amount of the jumma of their respective estates, or farms, with the exception of the amount of such authorized remissions." § 5. "In instances in which the first triennial settlement for the years 1210, 1211, and 1212 Fusly, shall have been concluded at an annual increase, under the orders of the late Lieutenant Governor and the Board of Commissioners, adverted to in clause first, Section 30, Regulation 25, 1803, instead of an equal, annual, jumma, as prescribed by the original rules for concluding the settlement of the land revenue in the ceded provinces, the ensuing triennial settlement, for the years 1213, 1214, and 1215 Fusly, shall be concluded at the jumma payable on account of the current year 1212 Fusly." § 6. "If any zemindar, or other landholder, or farmer of land, shall decline entering into engagements for the ensuing triennial settlement, on the terms prescribed by this regulation, the Governor General in Council reserves to himself the power of authorizing the conclusion of the settlement of the lands, comprised in the estates or farms of such landholders or farmers, for the years 1213, 1214, and 1215 Fusly, or for any proportion of the said period, with any other person or persons, who shall be willing to enter into engagements, for the payment of the revenue of the said lands." § 7. "Nothing contained in this regulation shall be considered to affect any settlements, which shall have been actually concluded for the whole or any part of the ensuing three years 1213, 1214, and 1215 Fusly; neither shall any part of this regulation be construed to preclude the operation of the rule prescribed by Section 33, Regulation 25, 1803, under which the zemindars, independant talookdars, and other actual proprietors of land, whose lands have been let in farm, are entitled, at the expiration of the present triennial settlement ending with the year 1212 Fussily, to be re-instated under the general regulations prescribed for such cases, in the management of their estates, upon their agreeing to the payment of the assessment required from them."

THE subsequent regulations for the settlement of the provinces ceded by the Newab Vizeer having reference also to those acquired by conquest from Dowlut Rao Sindhia; which, during the continuance of the Marhatta war (in 1804, and part of 1805,) were left in charge of the Company's civil servants, under the general control of the Commander in Chief (Lord Lake;) as well as to the district of Bundelcund, ceded by the Peshwa; it will be proper to notice, in this place, the following articles of a proclamation issued to the landholders of the conquered provinces, and of the district last mentioned, on the 11th July 1805, or 29th Asarh 1212 Fussy; when, in addition to the rules for administering justice in criminal cases, which had been previously established in these territories by Regulation 9, 1804, it was determined to extend to them, with such modifications as appeared necessary, (and exclusive of the district assigned for the support of the King of Delhi) the whole of the laws and regulations in force for the internal administration of the provinces ceded by the Newab Vizeer.

Subsequent regulations for settlement of province ceded by the Vizeer, relate also to conquered provinces obtained from Dowlut Rao Sindhia; and Bundelcund ceded by the Peshwa.

Preamble to Reg. 9, 1805, Proclamation issued to the landholders of these territories in July 1805.

ART. 1. "Whereas by Regulation 9, 1804, and Regulation 8, 1805, the laws and regulations established by the British Government, for the internal administration of the provinces ceded to the Honorable the English East India Company by the Newab Vizeer, have been extended, with such modifications and qualifications as were deemed necessary, to the conquered provinces situated within the Dooab, and on the right bank of the river Jumna, ceded to the Honorable the English East India Company by Dowlut Rao Scindeah; and to the territory in Bundelcund, situated on the right bank of the river Jumna, ceded to the Honorable the English East India Company by the Peshwa; and whereas it is the intention of the British Government, at the expiration of the current year 1212 Fussily, to adopt a plan for the settlement of the land revenue, in the said territories, upon principles of moderation and justice; and whereas it is of importance that the terms and conditions of such settlement should be made known

Section 2. Rules for proclaiming rights of landholders.

known throughout the territories aforesaid, as early as may be practicable; and whereas it is essential to the security of the rights and interests of the zemindars, and other landholders, in the said territories, that the nature of their right of property in their respective estates, under the terms and conditions hereafter recited, should be publicly acknowledged and declared; it is accordingly hereby proclaimed as follows:—

ART. 2. “ At the commencement of the year 1213 Fusly the sayer of every denomination will be separated from the māl, or land revenue; and a settlement will be concluded for the land revenue only, in all practicable cases, with the zemindars, or other actual proprietors of the soil, (unless when disqualified by notoriously bad character, or other good and sufficient cause) for a period of three years; viz. for the years 1213, 1214, and 1215, Fusly, (with the exception specified in the fifth article) at a fixed, equal, annual jumma; it being understood that such zemindars as are *huzzoor tehseel*, or allowed to pay their kists immediately to the collector of the zillah, shall be responsible for maintaining the police of their respective zemindaries, with the exception of the police in cities, large towns, and principal gunjes, the expense of which will be defrayed by Government. In instances however, in which, from calamity of season, or other good and sufficient cause, any landholder may be unwilling to engage for his lands at such a jumma, for the first year of the lease, as Government would otherwise be entitled to demand, with a reference to the probable resources and produce of the lands during the whole of the lease, the settlement will be concluded, for the first lease of three years, at a fair and equitable annual increase, instead of a fixed, equal, annual jumma. The *caboolats* executed by zemindars, and other actual proprietors of land, or farmers of land, shall contain a clause, restricting them from collecting sayer duties, or any duties whatever, in their respective estates or farms. The collectors are required to explain fully the nature and extent of this restriction, in order that persons desirous of entering into
engage-

Section 3.
The sayer to be
separated from
the māl, and a
settlement to be
made for the
land, for three
years, from the
commencement
of 1213 Fusly.

Huzzoor tehseel
zemindars
to be responsible
for the police,
with certain
exceptions.

Settlement to
be made at an
annual increase,
in certain cases.

Restriction to
be inserted in
the *caboolats*
not to collect
sayer duties.

Engagements, may regulate their proposals accordingly. No settlement shall be considered final until it shall have received the sanction of the Governor General in Council."

All settlements to receive the previous sanction of the Governor General in Council.

ART. 3. "At the expiration of the three years specified in the foregoing article, another settlement will be concluded with the same persons, (if willing to engage) for a further period of three years; viz. for the years 1216, 1217, and 1218 Fussily, (with the exception specified in the fifth article) at a fixed, equal, annual, jumma; which jumma shall be formed, by taking the difference between the annual amount of the first lease and the actual yearly produce of the land at the time of its expiration, and adding two thirds of such difference to the annual rent of the first lease."

Section 4. Rules for concluding a second triennial settlement.

ART. 4. "At the expiration of the year 1218 Fussily, a new settlement will be concluded with the same persons, (if willing to engage) for a further period of four years; viz. for the years 1219, 1220, 1221, and 1222 Fussily, (with the exception specified in the fifth article) at a fixed, equal, annual jumma, which jumma shall be formed by adding, to the annual rent of the second three years, three fourths of the net increase of revenue during any one year of that period."

Section 5. Rules for concluding a new settlement for four years, on the expiration of the preceding one.

ART. 5. "The settlement of the land revenue in the territory in Bundelcund, ceded to the Honorable the English East India Company by the Peshwah, to be formed at the commencement of the year 1213 Fussily, will be concluded for one year only, in the first instance, under the general rules notified in this proclamation. The three succeeding settlements of the land revenue in the territory aforesaid will be concluded for the following periods of time; first, for the years 1214, 1215, and 1216 Fussily; secondly, for the years 1217, 1218, and 1219 Fussily; and thirdly, for the years 1220, 1221, and 1222 Fussily, under the terms and conditions specified in this proclamation."

Section 6. Rules for concluding the subsequent settlements in salish Bundelcund.

Section 7.
Rules for concluding a permanent settlement, on the expiration of said fifty years.

ART. 6. "At the end of the ten years, expiring with the year 1222 Fassily, a permanent settlement will be concluded with the same persons, (if willing to engage, and if no other persons having a better claim shall come forward,) for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable."

Section 8.
Nankar to be allowed to zemindars, in certain cases, and at what rate.

ART. 7. "Those zemindars who may decline entering into engagements for their estates, as also those zemindars whose offers may be rejected by Government, shall, for the present, be allowed the same nankar which they have hitherto received from the ruling power for the time being; provided the rate of such nankar shall not, in either of the cases above stated, exceed ten per cent on the jumma of the estate."

Section 9.
In instances in which land are mortgaged, or transferred on security, the settlement to be made with the person in possession.

ART. 8. "With respect to such zemindaries as may have been mortgaged, or transferred on security, and possession thereof actually given to the mortgagees, or sureties, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor; leaving the latter to obtain possession, either by a private settlement of accounts, or by a judicial process."

Section 10.
Rule for concluding the settlement of small talooks, or estates, nominally included in large zemindaries.

ART. 9. "The settlement of such small talooks, or estates, as may be only nominally included in large zemindaries, in the sudder jumma of which their jumma may be comprehended, will be made, separately and distinctly, with the proprietors of such small estates; and they will be allowed to pay their revenue directly to the tehseeldars on the part of Government, or to the collector of the zillah, as may be deemed advisable; provided, however, that the talookdars, or proprietors of such small talooks, or estates, shall be desirous of the separation, or the zemindars shall require it. In the event of a zemindar considering himself aggrieved by a separation made in conformity to the foregoing rule; or of a

A zemindar or talookdar considering himself aggrieved by a

talookdar

talookdar being dissatisfied at not being separated from a zemindarry, agreeably to what he may have considered as his right; in either case, the party considering himself aggrieved will be at liberty to seek redress in the courts of justice. The collectors, however, shall not allow any disputed claims to interfere with, or delay, the immediate conclusion of the settlement, which, in all doubtful cases, shall be made with the person in possession."

ART. 10. "With respect to such lands as are without proprietors, or the proprietors of which may decline entering into engagements, a village settlement shall be concluded for three years, from the commencement of the year 1213, or the year 1214 Fussily, according as the settlement may be concluded in the provinces ceded by DOULUT RAO SCINDIAH, or in the territory ceded by the Peshwah, at a fixed, equal, annual jumma; with the reservation contained in the concluding part of the second article, relative to forming the settlement, in certain cases, at an annual increase. In instances in which a village settlement shall be concluded in Bundelcund, at the commencement of the year 1213 Fussily, such settlement shall be formed only for one year. In all cases of the description mentioned in this article, a preference will be given to the mocuddums, purdhauns, or respectable ryots, of the several villages."

ART. 11. "In instances in which neither proprietors nor farmers shall be forthcoming, or in which they shall not tender suitable conditions of agreement, a *khaus* or *bowlee*, settlement shall be concluded with the ryots for lands in such predicament; stipulating the shares to be received by the ryots, from the different descriptions of land, as follows: in *politch* lands, or such as are in full cultivation, Government shall receive five pusserees; and the ryot three pusserees: in *chunchur* lands, or such as have not been cultivated for two or three years, Government shall receive two, and the ryot six pusserees: in *bunjur*, or waste lands, Government shall receive one, and ryot seven pusserees. Chunchur

Separation made in conformity with the foregoing rule, how proceed.

In doubtful cases, the settlement to be made with the person in possession.

Section 11. Where there are no proprietors or the proprietors refuse to enter into a village settlement to be concluded, for three years.

Exception with respect to Bundelcund.

Preference to be given to mocaddums, purdhauns and respectable ryots.

Section 12. A *khaus* or *bowlee* settlement to be concluded, where no other can be formed.

Rules for settling the predial between Government and the ryots, when a *khaus* settlement shall be made.

chut lands, after one year, and bunjur lands, after two years, shall be considered equal to politch. Bunjur lands, after one year, shall be considered equal to chunchur. In khaus settlements, the *bhaint*, or *nuzzera*, shall be abolished. The wages of the putwaries shall be paid by the ryots; but the expense of the mussahut, or measuring and valuing the crops, shall be defrayed by Government, in consideration of the additional pusseree received out of the politch crop. In all cases when crops are valued, the valuation shall be determined by the price current of the day. In khaus settlements, the ryots shall engage that the cultivation of the lands shall not fall off; and that they shall not undertake the cultivation of new lands until they have accomplished that of the land already engaged for by them."

Putwaries or
bhaint abolish-
ed; putwaries
wages to be paid
by the ryots.

Expense of
measuring and
valuing crops
to be defrayed
by Government.
Valuation to be
determined by
the price current
of the day.

Ryots to engage
to keep up the
cultivation.

ART. 12. "All authorized abwaubs shall be consolidated, and incorporated with the land rent, and expressed in the pottahs and cabooleats; and nothing but what is there expressed shall be collected from the ryots or under-renters."

Section 12.
All authorized
abwaubs to be
consolidated
with the land
rent, and ex-
pressed in the
pottahs and ca-
booleats.

ART. 13. "All persons, who may enter into engagements for the settlement, shall bind themselves, by written obligations, to grant pottahs, of the above description, to their ryots and under-renters of every description; specifying the amount to be paid by such ryots and under-renters respectively; and counter engagements shall be executed by the ryots and under-renters of a similar tenor and purport."

Section 14.
Persons enter-
ing into engage-
ments to grant
pottahs of the
above descrip-
tion to the
ryots.

Who shall exe-
cute counter
engagements.

ART. 14. "All persons who may enter into engagements with Government, shall previously give security for the fulfilment thereof, in an amount equal to one fourth of their annual jumma."

Section 15.
Security to be
given, by per-
sons entering
into engage-
ments with Go-
vernment, equal
to one fourth of
the jumma.

ART. 15. "In concluding the settlement of the land revenue, in the territories mentioned in this proclamation, at the commencement of the year 1213 Fussily, the allowance of nan-
kar

Section 16.
In concluding
the settlement,
the nan-
kar to be
allowed from
the jumma, if
exceeding
the amount.

kar to such of the zemindars as may engage for their lands shall be regulated by deducting the amount of the nankar from the jumma, and taking engagements from the zemindars for the neat residue; provided that the deduction for nankar shall not, in any instance, exceed ten per cent on the neat jumma."

ART. 16. "Persons having claims to lands, for which engagements have been entered into with the present possessors, and who shall not prefer their claim to regain possession of the same within six months from the date (as recorded in the respective zillahs) of issuing this proclamation, shall not be entitled to be restored to the actual possession of such lands before the expiration of the year 1213 Fussily, if the lands are situated in the zillah of Bundelcund; or before the expiration of the first triennial lease, ending with the year 1215 Fussily, if the lands are situated in the zillah of Allyghur, the northern or southern division of the zillah of Saharunpore, or the zillah of Agra. Persons preferring such claims, in the zillah of Bundelcund, after the expiration of the year 1213 Fussily, and before the conclusion of the first triennial lease in that zillah, ending with the year 1216 Fussily, shall not be entitled to regain possession of the lands claimed by them, until such lease shall expire. Persons who shall not prefer their claims before the expiration of the first lease of three years, that is to say, before the commencement of the year 1216 Fussily in the zillah of Allyghur, the northern or southern division of the zillah of Saharunpore, or the zillah of Agra, or before the commencement of the year 1217 Fussily in the zillah of Bundelcund, shall not be entitled to regain possession of the lands claimed by them, until the expiration of the ten years, or the commencement of the year 1223 Fussily. But this rule shall not be considered to restrict persons from preferring their claims at any time within the ten years."

Section 17.
Rules respecting
the claims of
persons having
claims to lands,
who shall not
prefer the same
within certain
periods.

ART. 17. "In instances in which a collector shall judge it to be inexpedient to conclude a settlement with a zemindar, he shall

Section 18.
Report to be
made to the
Board of Reve-
nue, when

Collector shall judge it inexpedient to con-
clude a settle-
ment with a set-
tled zemindar, apply
proceedings to
be held on the
subject.

hold proceedings on the subject, detailing at large his reasons for rejecting the claim, with whatever information he may have obtained respecting such zemindar; at the same time receiving the zemindar's answer to the objections urged to his claim. The collector shall then transmit the whole of his proceedings to the Board of Revenue, and shall await their determination thereon."

Section 19.
Large zemindar-
ies not to be
entrusted to
tehsildars.

ART. 18. "The collectors shall not, in any instance, entrust the settlement, or the collection, of the revenues of a considerable zemindarry to a tehseldar: the settlement of all zemindarries of the above description shall be concluded immediately by the collectors, to whom the revenue of such zemindarries shall also be immediately paid. In like manner, the collectors shall conclude the settlement, and receive immediately into their respective treasuries, the collections of all other lands which they can bring under their immediate superintendence, without detriment to their general avocations."

The settlement
and collections
of all other lands
are to likewise
be managed by the
collector in all
possible cases.

Section 20.
Rent of consid-
erable farms to
be paid immedi-
ately into the
treasuries of the
collectors in
certain cases.

ART. 19. "In instances in which lands to a considerable amount shall be let in farm to one individual, and government shall be of opinion, from the report of the Board of Revenue, that the other avocations of the collector will admit of the measure, the rent of such farm shall be paid immediately into the treasury of the collector, instead of being received through the channel of a tehseldar."

Section 21.
Explanation of
the third and
fourth articles
of this procla-
mation, respect-
ing the rule to
be adopted in
adding to the
jumma a portion
of the increased
produce, con-
sidering the
future settle-
ments.

ART. 20. "With the view of obviating any misconstruction of the rule to be adopted, in adding to the jumma a portion of the increased produce in concluding the settlements to be formed at the commencement of the Fussy years 1216 and 1219, or 1217 and 1220, (according as the settlement shall be concluded in the provinces ceded by DOWLAT RAO SCINDIAH, or in the territory ceded by the Peshwah) it is hereby declared, in explanation of the third and fourth articles of this proclamation, that the amount of the nankar, to which the zemindars will be enti-
tled,

ted, conformably to the engagements entered into by them, under this proclamation, shall be deducted from the actual yearly produce of their estates, at the time of the expiration of each lease; and the actual increase of public revenue, to be assessed agreeably to the articles above specified, shall be calculated on the amount of the difference between the actual net produce, after such deduction, and the annual amount of the former lease. It is at the same time declared, that the portion of the increased produce relinquished to the zemindars under the abovementioned articles, on the formation of the successive settlements, shall be considered as precluding all claim on the part of the zemindars to any further proportion of such increased produce, on account of nankar, in addition to the deduction which will be made and continued to them on this account.”

ART. 21. “ A discretionary power is vested in the landholders to grant small portions of all land, exempt from the payment of revenue, for the support of their village watchmen, whenever they shall prefer making such grants to paying the watchmen a pecuniary allowance. Such grants, however, shall be resumable, on the death or removal of the persons to whom they may be made; and the lands thus exempted from the payment of rent, as well as any other lands held by public officers or private servants exempt from rent, in lieu of wages, and not forming part of any authorized lakheraje grants, or tenures, within the provisions of Regulation 31 and 36, 1803, shall be considered to form a component part of the malguzary lands of the estates to which they may respectively appertain, for the revenue assessed upon which they will consequently be held responsible in common with all other malguzary lands included therein.”

Section 21.
A discretionary power vested in the landholders to grant small portions of land for the support of village watchmen, exempt from the payment of revenue. Such lands resumable, on the death or removal of the persons to whom they may be granted.

And considered responsible for the revenue assessed upon the estates to which they may respectively appertain.

ART. 22. “ The Governor General in Council hereby notifies to those zemindars, independent talookdars, and other actual proprietors of lands, whose lands may be held *khaus*, or let in farm, in consequence of their refusing to pay the assessment required of them

Section 22.
Proprietors of lands held *khaus*, or let in farm, will be subjected to the management of the same, according to the

payment of the
required assess-
ment. Restric-
tion with re-
spect to lands
let in farm.

them under this proclamation; that the zemindars, independent talookdars, and other actual proprietors of land, whose lands may be held khaus, shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which shall be required of them, in conformity to the prescribed rules for the settlement of the land revenue; and that the zemindars, independent talookars, and other actual proprietors of land, whose lands may be let in farm, shall not regain possession of their lands, before the expiration of the period for which they may be farmed, (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer;) but that, at the expiration of that period, upon their agreeing to the payment of the assessment which shall be required of them, they shall be re-instated, under the general regulations, in the management of their estates respectively."

Sections 24 to
29.
Reminding rules
of procla-
mation con-
sistent with the
provision in the
Sections 34 to 39,
of Regulation
XXV, 1803.

THE six further articles of this proclamation, comprised in Sections 24 to 29, of Regulation 9, 1805, contain the same declarations of private and public rights, as were made to the landholders of the provinces ceded by the Newab Vizeer, in Sections 34, 35, 36, 37, 38 and 39, of Regulation 25, 1803; and have been already specified, except a provision in the section last mentioned, that nothing in the preceding sections "shall be understood to preclude the revision and correction of allotments of the public assessment upon portions of estates disposed of by public sale, or private transfer, or upon the partition of joint estates, in cases of evident error, collusion, or fraud; or to authorize the collectors, or any other officer of government, to determine finally the amount of the public assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, or divided between sharers, without the sanction of the Board of Revenue." But these objects are more fully provided for in the rules prescribed for the sale and division of lands paying revenue to government, which will be hereafter detailed,

THE regulations enacted respecting the coinage of the ceded and conquered provinces will be distinctly specified. But it may be proper to notice in this place, that by Section 17, of Regulation 45, 1803, extended to the conquered provinces in the Dooab, and on the right bank of the Jumna, as well as to the district of Bundelcund, by Regulation 11, 1805, all future settlements of the land revenue in those territories were directed to be concluded in the Lucknow forty-fifth sun sicca rupee, as established by that regulation. Provision was at the same time made (and extended by Regulation 4, 1807,) for receiving other rupees, at certain rates of exchange, until a sufficient quantity of the standard sicca rupee could be coined for general circulation.

Provisions for
coinage in ceded
and conquered
provinces, will
be specified un-
der a distinct
head
Regulation 45,
1803, Section 17,
§ 11, item 1 for
land revenue
directed to be in
Lucknow 45th
sun sicca ru-
pee.

With temporary
provision for re-
ceiving other ru-
pees.

THE disqualified landholders, who were excepted from the general rule of forming a settlement "with the zemindars and other actual proprietors of the soil," by the first article of the proclamation issued under date the 14th July 1802, in the provinces ceded by the Newab Vizeer, and the second article of the proclamation issued in the provinces acquired from DOULUT RAO SINDHEA, and Bundelcund, on the 11th July 1805, have been already mentioned in stating the jurisdiction of the Court of Wards; which was established in the above territories by Regulation 52, 1803, and Section 29, Regulation 8, 1805. But it may here be repeated, that the prescribed grounds of disqualification include "all proprietors of entire estates, paying revenue immediately to Government, who are or may be females, not deemed by the Governor General in Council competent to the management of their own estates; minors, idiots, lunatics, or others rendered incapable of managing their estates by natural defects or infirmities of whatever nature; as well as all proprietors of such estates, who are or may be deemed disqualified on account of notoriously bad character." Considerations of policy, similar to those which dictated the expediency of excluding, from local management and influence, a particular landholder, of notoriously bad character, when a similar provision in the lower provinces had been abrogated,

What disquali-
fied and others
were excluded
from the settle-
ment.

Remark on ex-
clusion of land-
holders of no-
toriously bad
character. "A
similar provi-
sion had been
abrogated in
the lower pro-
vinces.

Reg. 52, 1803,
Section 5.
Similar con-
ditions may
be left in force
in the provi-
nces or the manage-
ment of joint
estates; which
had been res-
cinded in the
lower provin-
ces.
Clause 1.
In what cases
the manager to
be elected by
the joint pro-
prietors.

Clause 2.
Guardians of
certain proprie-
tors to vote in
the election.

Clause 3.
In what cases
the manager to
be nominated
by the collector
and approved
by the Board of
Revenue.

may perhaps have left in force the following clauses of Section 5, Regulation 52, 1803, corresponding with Sections 23, 24, 25, and 26, of Regulation 8, 1793; after the three former sections had been rescinded in the lower provinces by Regulation 17, 1805.* *First.* "Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders, specified in Section 3, the settlement shall be made with them jointly, and they are required to elect a serberakar, or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, shall be binding on the remainder in the choice of a manager; and when the votes of the proprietors are equal, the election of the manager shall be determined by the greater interest of the proprietors in the property. If, in any case, the interest also be equal, the manager shall be appointed by the Board of Revenue." *Second.* "In instances where part of the proprietors described in the foregoing clause may be minors, lunatics, idiots, or others having guardians, such guardians shall vote for them." *Third.* If the joint proprietors of undivided estates, the whole of whom may not be of the descriptions of disqualified landholders mentioned in Section 3, shall neglect to elect a serberakar, on the requisition of the collector of the revenue of the zillah in which such estates may be situated, the latter is authorized to nominate a manager, for the approbation of the Board of Revenue; which manager, when confirmed by that Board, shall have the exclusive management, as long as it may be deemed advisable to continue him in that trust. The expense attendant on the ap-

* I have suggested the possibility only of its being intended to leave the first, second, and third clauses of Section 5, Regulation 52, 1803, in force for the ceded and conquered provinces, when similar provisions in the lower provinces were rescinded by Regulation 17, 1805; because Sections 26, and 27, of Regulation 5, 1812, which appear to have been substituted for the rescinded sections of Regulation 8, 1793, are in force throughout all the provinces immediately dependent on the presidency of Fort William. It may not therefore have been adverted to, that Section 5, Regulation 52, 1803, had not been repealed.

pointment of the manager shall nevertheless be defrayed by the proprietors, who shall also be responsible for the discharge of the public revenue." *Fourth.* "The determination of the majority of the proprietors present, under the restrictions specified in clause first of this section, shall also be binding on the remainder, in agreeing or disagreeing to the jumma proposed for undivided estates. The sharers however, if dissatisfied, may obtain a division of their lands, and a proportionate allotment of the revenue assessed thereon, but at their own expense."

Clause 4.
The determination of the majority of joint proprietors to be also binding, under restrictions, respecting the jumma of undivided estates. But sharers, who are dissatisfied, may obtain a division.

It was noticed in a former part of this Analysis (volume I. page 584,) that the pergunnahs of Sonk, Sonsa, and Sahar, forming part of the territories obtained from DOULUT RAO SINDHIA, but subsequently given up to the Rajah of Bhurtpore, were finally annexed to the Company's dominion by a treaty with the Rajah of Bhurtpore, dated 17th April 1805, and included in zillah Agra, by Regulation 12, 1806. It may here be added, that the rules of settlement, which have been stated, for the territories above-mentioned, were extended to the three pergunnahs in question, with other regulations in force throughout the ceded and conquered provinces, under a provision, contained in Section 5, Regulation 12, 1806, that "instead of the periods prescribed by Sections 3, 4, and 5, Regulation 9, 1805, for concluding the periodical settlements of the land revenue in the conquered provinces, the three succeeding settlements of the land revenue in the above pergunnahs, shall be concluded for the following periods of time; viz. first, for the years 1214 and 1215, Fussily; secondly, for the years 1216, 1217, and 1218, Fussily; and thirdly, for the years 1219, 1220, 1221, and 1222, Fussily; under the terms and conditions specified in the proclamation contained in Regulation 9, 1805."

Notice of pergunnahs, Sonk, Sonsa and Sahar, in supplement to first part of this Analysis.

Regulation 12, 1806, Sections 3 and 5. Rules of settlement for conquered provinces extended to these pergunnahs, with alteration of period for first settlement.

THE remote situation of the Board of Revenue, at the presidency, being found unfavourable to the exercise of an efficient superintendence of the assessment and collections in the ceded and

Regulation 10, 1805. Reasons for appointing a commission to superintend the

Settlement of
the ceded and
conquered pro-
vinces.

Section 2.
Constitution
and objects of
commission.

Section 3.
Powers vested
in the commis-
sioners.

And officers to
attend them.

Section 4.
In what man-
ner the commis-
sioners to super-
intend ensuing
settlement.

Section 5.
Original rules
of settlement
modified, and
Jumma of last
year of ensuing
settlement of
the ceded and
conquered pro-
vinces in re-
sult fixed for

and conquered provinces, and the Governor General in Council being desirous of concluding a permanent settlement of the land revenue in these provinces, as soon as a sufficient knowledge of the resources of the country could be obtained to admit of it, a commission was constituted in the year 1807, (by Regulation 10, of that year, to be in force from the 17th September, or commencement of the Fussy year 1215,) "consisting of two members, for the superintendence of the ensuing settlement, and for the general control of the collectors in the discharge of their several public duties, in the ceded and conquered provinces, with the exception of the territory assigned for the support of the Royal family at Delhi, and the zillah of Cuttack." The commissioners appointed under this regulation, (one of whom was a member of the Board of Revenue) were "vested with all the duties, powers, and authority, which had been hitherto exercised by the Board of Revenue," in the ceded and conquered provinces referred to; and were attended by a secretary and accountant, who were to execute "the duties hitherto performed by the secretary and accountant to the Board of Revenue." The primary object of the commission being the superintendence of the ensuing settlement of the land revenue, viz. the quartennial settlement, to commence with the Fussy year 1216, in the provinces ceded by the Newab Vizeer; the second triennial settlement, to begin with the same year, in the provinces acquired from DOULUT RAO SINDHERA; and the second triennial settlement, to be formed at the beginning of 1217 Fussy, in Bundelcund; it was made "the duty of the commissioners to superintend the performance of that duty by the collectors, as far as circumstances might permit, on the spot; by proceeding from time to time into the different districts, according as they may be of opinion, that their presence is necessary, or advisable." At the same time the rules contained in Section 29, Regulation 25, 1803, Section 53, Regulation 27, 1803, and Sections 4 to 7 of Regulation 9, 1805, (whereby another temporary settlement of four years was to be made for the provinces ceded by the Newab Vizeer, two temporary settlements,

settlements, of three and four years, were to be made for the conquered provinces, and two, of three years, for Bundelcund; and at the end of ten years, from the formation of the original settlement, a permanent settlement was to be concluded (with the same persons, if willing to engage, and if no other persons having a better claim should come forward) “ for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as government shall deem fair and equitable,”) were modified by Section 5, Regulation 10, 1807; whereby it was notified “ to the zemindars and other actual proprietors of land, in the ceded and conquered provinces, that the jumma which may be assessed on their estates, in the last year of the settlement immediately ensuing the present settlement, shall remain fixed for ever, in case the zemindars shall now be willing to engage for the payment of the public revenue on those terms in perpetuity, and the arrangement shall receive the sanction of the Honorable the Court of Directors.”

ever, if the zemindars be willing to engage for it in perpetuity, and the arrangement be sanctioned by the Court of Directors.

THE commissioners, who were appointed to carry into effect the provisions of the above regulation, from the result of their local inquiries, were induced to doubt the expediency of entering immediately upon the conclusion of a permanent settlement; and after considering the answers of the several collectors to interrogatories transmitted on various points connected with this measure, in their report, dated 13th April 1808, the commissioners submitted to government a decided opinion against the immediate formation of a settlement in perpetuity for the territories under their control.*

Doubts entertained by the commissioners on the expediency of an immediate permanent settlement.

And report from them under date the 13th April 1808.

The

* The following extract from the report of the commissioners (Messrs COX and TUCKER) will best explain the nature and extent of their objections to the immediate conclusion of a fixed assessment in perpetuity; whilst they at the same time fully concurred in the ultimate policy of a measure, so calculated to promote agricultural improvement, as well as the attachment of the landholders to the British Government; when a more accurate knowledge of the country, and the removal of some existing impediments might admit of it.

“ The whole tenor of the communication, which we have had the honor to make, will probably have suggested doubts to your Lordship, with regard to the expediency of declaring the permanency of the ensuing settlement; but the question is of such

Court of Directors
advised accordingly;
and their influence
was so small.

The Court of Directors were advised accordingly, with the sentiments of the Governor General in Council on the subject; and on the 27th February 1810, the former stated it not to be their intention

importance that we shall endeavour to give a more distinct view of it; by recapitulating, in a connected manner, the objections to which the measure appears to us to be liable at present. 1st. The resources of the country have not yet been brought forth: upon the most moderate computation, one fourth of the arable land still remains uncultivated; and assuming the gross annual jumma of the provinces at 2,25,00,000 rupees, an asset of future revenue, to the amount of not less than 75,00,000 rupees per annum, must be considered to be relinquished by an immediate limitation of the public demand upon the land. 2d. In the talooks and farms, held by the Rajahs DIARAM and others, a sacrifice still more disproportioned will be made; the public officers possessing no means, at present, of ascertaining the resources of the lands; and it being questionable whether any immediate attempt to scrutinize, or to assess them upon the ground of their actual produce, might not endanger the public tranquillity. 3d. The lands held by those chiefs could not now be regularly assessed; and if at a future period it should be found practicable and expedient to assign the farmed lands to the village zemindars, those persons will obtain them at a rate of assessment very different from that which prevails in other parts of the district; or government, in adopting any new standard of assessment, would be justly chargeable with a breach of engagement. 4th. We have not yet obtained a sufficient knowledge either of the present state of the country, or of its means of future improvement, to enable us to assess the lands upon a just and equal footing; or without the risk of making gross mistakes to the prejudice of Government. It has been so much the practice of late years to translate the public officers from station to station, that few of them have had an opportunity of becoming acquainted with the districts over which they are appointed to preside, and the uncertainty of their retaining a particular charge for any length of time renders them perhaps indifferent to it; at least it cannot be supposed that they will be equally diligent in collecting information and accounts, and in procuring materials for use at a future period, when they see a probability of their being removed before that period can arrive. A succession of officers is moreover usually attended with a succession of plans; and the frequent changes which take place not only prevent the adoption of any systematic arrangement for conducting the public business; but they perplex and confound the people. 5th. The population of the country is at present very deficient. 6th. The population being unequal to the entire cultivation of the lands, and the different estates possessing very different capacities, it would follow that the proprietors of estates lightly assessed, or of estates containing much waste land, would have the means of drawing away the ryots from estates fully assessed; and the public revenue assessed on the latter might not only become precarious in consequence, but the original injustice of an unequal assessment would be aggravated to the ruin perhaps ultimately of particular individuals. It may not be practicable, we are aware, to assess the lands with perfect equality in the first instance; or to preserve exact equality afterwards under any plan of settlement; but in a country where the land tax is so high, it is peculiarly necessary to guard against those extreme errors which must be injurious both to the Government and to individuals. 7th. The landholders do not at present possess that capital which is necessary

tention to fix the assessment of provinces so recently acquired, the resources and capability of which must necessarily be imperfectly known: but from the loss of dispatches, by accidents to the ships which

sary to enable them to undertake improvements for the purpose of obtaining from the land the full produce of which it is capable; and Government cannot therefore assess it with any reference to its actual capacity. 8th. In the same manner, the country being without commerce, or enjoying only a commerce which is fettered by injudicious restrictions, agriculture is checked and discouraged; many articles of produce are probably suppressed; and even the land which is already in cultivation does not produce the value which might be obtained from it under other circumstances. The commerce of the country is circumscribed also by the want of opulent consumers; and although it has been questioned whether the wealth of the community is not derived exclusively from agriculture, it is certain that a Government cannot draw a revenue from the land, proportioned to its productive powers, until there exist a demand for its produce, sufficiently extensive to bring those powers into action. Some of the collectors have reported that they are not aware that the customs operate injuriously in checking the progress of agriculture; but this negative testimony we cannot admit in opposition to authority which directly points to a different conclusion; and which is corroborated by the whole course of our own observation and experience. 9th. The landholders, accustomed to annual or short settlements, and discouraged by a succession of unfavourable seasons, would not, it may be apprehended, be willing to engage generally for that revenue which the country, even without an extension of its agriculture, may be expected to yield under more propitious circumstances. The excessive drought in the past year was severely felt; and it is not easy to persuade the landholders, that in making arrangements for the next settlement former casualties must be disregarded. They feel differently; nor ought we to be surprised that a mere temporary calamity should leave a strong impression upon the minds of men, whose experience has not taught them to expect from the future an indemnification for past disappointments. Under the government of our immediate predecessors the landholders, we believe, were little accustomed to look forward to any distant good; and we greatly apprehend that our own administration of the territory, lately acquired by us, has not yet been marked with that character which is calculated to inspire confidence and to stimulate exertion. 10th. A large portion of the country must, by the operation of the existing regulations, remain under the management of farmers during the ensuing four years; and it cannot be supposed that persons, who have only a temporary interest in the lands, will appropriate large funds to their improvement; or that they will engage for a revenue to be produced by the gradual extension of such improvements. An opulent proprietary might engage, with safety, to contribute towards the public exigencies, for an income to be created by means of its own capital, at a future period; but such a proprietary does not exist in the country at present, even if the pretension of the farmers could be set aside without injustice. Let us then hold in mind that, in divesting itself of the right to participation in the benefit of future improvements, the Government relinquish a source of revenue for which no proper substitute is likely to be found. The land has long been the chief object of taxation in this country; and circumstanced as it is at present, we are apprehensive that any attempt to introduce a new system of taxation would not only be unsuccessful; but that

which conveyed them, the Honorable Court were not enabled to take into consideration the report of the commissioners before the month of November 1811; when (in their general letter dated the

that it might be attended with very mischievous consequences. 11th. Great alienations of land are supposed to have taken place in several districts, and it is, we think, desirable that the fact should be ascertained before a permanent settlement be concluded. Such lands can, unquestionably, be resumed and assessed at any time; but they may in some instances appertain to particular estates; and a question would then arise whether they were resumable for the benefit of government, or of the proprietors. All such questions, and the necessity for all local investigations, should, if possible, be precluded before we announce to the people that the public demand on the land is fixed for ever. 12th. A similar question will also probably arise (in the district of Goruckpore especially) with respect to the right of property in the extensive tracts of waste land, which are not comprehended within the limits of particular estates; and it is equally desirable that this question should be previously decided. 13th. If the arguments urged in our letter of the 12th October be entitled to attention, we must conclude that the value of the standard coin of the country has not yet been definitely fixed; and should Government wish to alter the standard of the currency, after perpetual engagements shall have been concluded with the landholders, one or other of these difficulties must be encountered: if the standard be lowered, the Government will sacrifice a portion of its revenue; if it be raised, the public demand upon the land will actually be raised in the same proportion in breach of an engagement; or if an attempt be made to accommodate subsisting engagements to the change which has taken place in the value of the coin, it is to be apprehended that the landholders will not feel the same confidence in the permanency of them. 14th. The proprietary right in the land is at present contested; and the regulations have not provided clear and precise rules for deciding the questions which have arisen regarding it. The settlement cannot therefore be formed, with any of the claimant's, upon a satisfactory assurance, that they will establish ultimately their right of property in the soil, and with mere temporary occupants it cannot, we think, be concluded without great disadvantage. *Finally.* It will not, in our opinion, be judicious to attempt a permanent settlement, until it can be concluded without any condition or reservation whatever. The natives understand the value of a mokurrory tenure perfectly well; but they are little acquainted with the constitution of our Government; and they cannot readily comprehend that the local administration is not paramount.—If they adopt the idea that the grant is conditional; and must await the sanction of a superior authority, it will lose much of its value. But if, on the other hand, they should consider it absolute; and the Honorable Court of Directors, not satisfied with the documents upon which the settlement has been formed, should ultimately withhold their confirmation of it, the landholders will, we fear, suspect that they have been imposed upon; and that we had no other view in holding out the advantages of permanency than to extort from them a higher revenue. Such a disappointment would finally extinguish the embers of an expiring confidence; and when hereafter we may really intend to confer upon the country the benefit of a permanent settlement, distrust will greatly diminish its value in the estimation of the people.—We are ourselves fully sensible of the many advantages which may be expected to result from a limitation of the public demand upon the land.

We

the 27th of that month) they communicated to the Governor General in Council the impression which they had received from this document, that an immediate perpetual settlement of the ceded and conquered provinces "would be premature, supposing the arrangement otherwise to be completely unexceptionable; that it would be attended ultimately with a large sacrifice of revenue; that they were by no means sufficiently acquainted, either with the resources of the country, or with the rights and ancient customs of the different classes of landholders, to venture upon a step of so much importance, and in its nature irrevocable; and that whether the measure may be eligible at a future period, and what modifications it may be prudent to apply to it, are questions which will remain open to discussion."*

ON receipt of this letter, which also contained restrictive instructions against the immediate formation of a settlement beyond five years, for any part of the provinces, the revenue of which had not been definitively fixed, two Regulations (9, and 10, 1812,) were enacted, viz; one for the provinces ceded by the Newab Vizier, the other for the conquered provinces and Bundelcund, rescinding such part of Section 5, Regulation 10, 1807, "as declared provisionally that the jumma, which may be assessed on the estates of the zemindars and other proprietors of land, shall remain

We are aware that temporary settlements are harrassing to the people, and that they afford opportunities for frauds and abuses. It has been questioned indeed whether a country can make any considerable advances in improvement while the public taxes are progressively increased, and the individual is not permitted to enjoy any benefit from the exertion of greater industry; but with every previous disposition in favor of the principle of a permanent settlement, we submit to your Lordship in Council our deliberate and unqualified opinion that the measure, considered with relation to the ceded and conquered provinces generally is at this moment unseasonable; and that any premature attempt to introduce it must necessarily be attended with a material sacrifice of the public resources, and may in particular cases prove injurious to the parties themselves, whose prosperity it is the chief object of the measure to secure upon a durable foundation."

* This extract is copied from the fifth report of the select committee of the House of Commons already cited: in which the correspondence between the Governor General in Council, and the Honorable Court of Directors, relative to the settlement of the ceded and conquered provinces, is more fully detailed, than has been thought necessary or proper in this work. The following extract from the letter of

Reg. 9, and 10, 1812. From the Report of the Select Committee of the House of Commons on the Petition of the Directors of the East India Company, 1812. 5. Regulation 10, 1807, in which it is declared, in pursuance of the directions of the Court of Directors.

Section 3.
Former rules
for a provision-
al permanent
settlement, in
certain cases, as
the time time
declared to be
in force.

Section 4.
Board of Com-
missioners to as-
certain and re-
port w a clas-
sification of the
land in a state
of cultivation to
warrant the
conclusion of a
permanent set-
tlement.

main fixed for ever;" the Honorable the Court of Directors, in the exercise of the discretion expressly reserved to them, not having deemed it advisable to confirm that arrangement. The rule contained in the fourth article of the proclamation issued by the Lieutenant Governor and Commissioners for the ceded provinces, under date the 14th July, 1802, (included in Section 29, Regulation 25, 1803, and substantially repeated in the second clause of Section 53, Regulation 27, 1803,) which stated, that "at the end of ten years, a permanent settlement would be concluded with the same persons, if willing to engage, and if no others having a better claim should come forward, for such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable," was, at the same time, declared to be in full force and effect; as well as the corresponding rule, for the conquered provinces, and Bundelcund, in Section 7, Regulation 9, 1805. The quartennial settlement of the provinces ceded by the Newab Vizcer, which commenced with the Fusly year 1216, was near its expiration, when Regulation 9, 1812, was enacted, on the 11th July 1812, or 17th Asarh 1219 Fusly. It was therefore, by Section 4, of this Regulation, made the immediate duty of the Board of Commissioners (who had been permanently stationed in the upper provinces, under the provisions of Regulation I, 1809,) "to ascertain what estates may be in a state of cultivation to warrant the conclusion of a permanent settlement;" and by Section 4, of Regulation 10, 1812, they were required to perform the same duty in the conquered provinces and Bundelcund, "previously to the ex-

the Governor General in Council, which accompanied the report of the Commissioners, when transmitted to the Honorable Court of Directors, on the 15th September 1808, may however be inserted for general information of the sentiments of the local Government. "Allowing to Mr. Cox and Mr. Tucker all possible credit for the motives by which they were influenced in the discussion of the subject, and for the ability with which they have treated it, their report has not occasioned any alteration in the sentiments which we before entertained with respect to the immediate establishment of a permanent settlement in the ceded and conquered provinces, with the exception of a few particular places; in which, from local and peculiar circumstances, or from subsisting engagements with farmers, an over-ruling necessity will compel us to suspend the adoption of that measure."

piration of the year 1222;" being the last Fusly year of the temporary settlements directed to be formed in these territories. It was added, in both the Regulations above mentioned, that "in all such cases, a revision shall be made of the jumma assessed on the said estates, on the principle of leaving to the proprietors a net income of ten per cent on the jumma, exclusive of charges of collection; and a settlement shall be concluded with the proprietors, subject of course to the approval of the Governor General in Council." The jumma which might be so assessed on the estates of the zemindars and other actual proprietors of lands, was further declared to be "fixed for ever," in conformity to the tenor of the proclamations issued in the respective provinces, and afterwards incorporated into Regulations 25, 1803, and 9, 1805. It was likewise required from the Board of Commissioners "to submit to the Governor General in Council a report specifying the estates, which may not appear to be in a sufficiently improved state of cultivation to admit of the conclusion of a permanent settlement; without a sacrifice of those resources which may hereafter be derived from them for the exigencies of Government." And in all cases of that nature, the Governor General in Council reserved to himself the power of determining, "on consideration of the information which may be furnished by the Board of Commissioners, whether the settlement of such estates shall be made for the term of three or five years, or for any other period, as may appear most conducive to the public interests."*

Jumma how to be adjusted in such case.

Settlement to be made with landholders, subject to approval of Governor General in Council.

And settlement declared fixed for ever.

Section 5. Commissioners a s. to report the estates which may not be in a state of cultivation to admit of a permanent settlement.

Power reserved to the Governor General in Council of determining the period of settlement in such cases.

4. AS-

* The following statement exhibits the land revenue assessed, partly in perpetuity and partly for a term of years, under the regulations and instructions referred to; as far as the same had been adjusted and settled in the Fusly year 1221, or 1813-14.

CEDED PROVINCES.		Lucknow Rs. A	i.
ALLAHABAD,.....	28,01,915	7	10
BAREILLY,.....	23,57,996	2	9
CAWNPORE,.....	27,15,080	3	6
ETAWAH,.....	30,62,068	4	9
FURRUCKABAD,.....	10,50,946	0	0
GORUKPORE,.....	17,75,377	2	9
MORADABAD,.....	26,01,921	0	6
SHAHJEHANPORE,.....	11,46,165	1	6
Total Lucknow Rupees	1,75,11,469	7	7

CONQUERED

4. ASSESSMENT OF CUTTACK.

District of Cuttack when conquered, and ceded to the East India Company.

Reg. 10, 1805. Sections 2 & 3. Measure adopted by commissioners in which character it was collected after the conquest.

THIS district, which forms part of the province of Orissa, was surrendered to the British arms (as before noticed) on the 14th October 1803; and was finally ceded to the East India Company, by a treaty with the Rajah of Berar, in January 1804. It was placed, after the conquest, under charge of two commissioners, who deemed it necessary to adopt immediate measures for securing the rights of the landholders in the territory called *Mogulbundy*, being that part of the district in which, by established usage, the land is considered responsible for the revenue assessed upon it; and every landholder holds his tenure subject to the conditions of this usage. With this view, the commissioners issued a publication, signifying, that all persons who were in possession of the lands at the close of the Umlee year 1210, (corresponding with September 1803,) should continue in possession during the year 1211." The commissioners also declared all demands for balances of former years to be cancelled; and they ordered the amount of the revenue payable by the respective zemindars, on account of the year 1211 Umlee, to be ascertained and established according to the receipts of former years; granting a deduction of the amount of some oppressive abwabs and other exactions, and allowing for losses sustained by the ryots from the failure of the first crop of that season, as well as for such part of the revenue of the current year as had been previously collected by the Marhatta Government. On the 15th September 1801, (end of the Umlee, or Vilayutee year, 1211,) another proclamation was published by the commissioners, in virtue of powers vested in them by the Governor General in Council to the following effect. " *First.* Whereas it is the intention of the British

Section 4. Proclamation of the 15th September 1804.

Chute 1.

CONQUERED PROVINCES,
exclusive of Cuttack.

AGBA.....	14,25,238	5	5
ALLYGHUR.....	31,52,309	2	4
SEAHUNPORE.....	25,70,817	11	3
BUNDLEKUND.....	28,85,065	7	1
Total Lucknow Rupees	1,08,42,430	10	1

" Government

“ Government to adopt, at the expiration of the present Umlee
 “ year 1211, such a plan for the settlement of the landed revenue
 “ of the province of Cuttack, as may be most conducive to the
 “ prosperity of the country, and to the happiness of the inhabi-
 “ tants; and whereas it is of the utmost consequence to the success
 “ of the measure, as well as to the interest of the zemindars,
 “ talookdars, and all others concerned, that the nature and
 “ terms thereof should be made known as early as possible;
 “ notice is hereby given; *Second.* That at the commencement
 “ of the Umlee year 1212, the sayer of every denomination will
 “ be separated from the maul or land revenue, and a settle-
 “ ment for the latter only concluded in all practicable
 “ cases with the zemindars, or other actual proprietors of the soil,
 “ (unless when disqualified by notoriously bad character, or
 “ other good and sufficient cause,) for a period of one year; it be-
 “ ing understood that all zemindars and other landholders, and
 “ all kandytes, (head watchmen) shall for the present, and du-
 “ ring the pleasure of Government, continue to perform the same
 “ duties of police for the prevention of robberies, murders, and
 “ crimes of that nature, and for the preservation of peace and
 “ good order within their limits, and to be subject to the same
 “ responsibility, as heretofore. *Third.* That at the expiration
 “ of the year 1212, another settlement will be made with the
 “ same persons (if willing to engage, and they shall have con-
 “ ducted themselves to the satisfaction of government) for three
 “ years, at a fixed equal annual jumma, which jumma shall be
 “ formed upon a just and moderate consideration of the receipts
 “ in the year 1212, and former years. *Fourth.* That at the
 “ expiration of the fourth year, a new settlement will be made
 “ with the same persons (if willing to engage, and they shall have
 “ conducted themselves to the satisfaction of Government) for a
 “ further period of four years, at a fixed equal annual jumma,
 “ formed by adding to the annual rent of the preceding lease of
 “ three years, two-thirds of the net increase of revenue during
 “ any one year of that period. *Fifth.* That at the end of the

Clause 1.

Clause 3.

Clause 4.

Clause 5.

“ lease for four years (which will be in the Umlee year 1219,) “ a further settlement for the period of three years will be concluded with the persons in possession (if willing to engage, and they shall have conducted themselves to the satisfaction of Government) at a jumma to be formed by adding, to the annual rent of the preceding lease of four years, three-fourths of the net encrease of revenue during any one year of that period.

Clause 6.

“ *Sixth.* That at the end of these eleven years, which will be in 1222, a permanent settlement will be concluded with the same persons (if willing to engage, and they have conducted themselves to the satisfaction of Government, and if no others who have a better claim shall come forward) for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and

Clause 7.

“ equitable. *Seventh.* The nankar lands of those zemindars, who may decline entering into engagements for their estates, as also of those whose offers may be rejected by Government, will be subject to the payment of revenue equally with other lands in the district; but such zemindars shall for the present continue to receive in money an equivalent for what they have hitherto received as nankar from the Mahratta Government.

Clause 8.

“ *Eighth.* That with respect to such zemindars as may have been mortgaged or transferred in security, and possession thereof actually given to the mortgagees or securities, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor; leaving the latter to obtain possession, either by a private settlement of accounts, or by a judicial process. *Ninth.* That the settlement of such

Clause 9.

“ small talooks, or zemindaries, as may be only nominally included in large zemindaries, in the sudder jumma of which their jumma may be comprehended, will be made separately and distinctly, with the proprietors of such small estates; and they will be allowed to pay their revenue directly to the collector, or the person appointed by him to receive it; and in all cases where the revenue of a village has, for upwards of five years

“ past,

“ past, been paid direct to Government by the hereditary mo-
 “ kuddum, the settlement for such village will be made with the
 “ hereditary mokuddum. *Tenth.* That with respect to such
 “ lands as are without proprietors, or the proprietors of which
 “ decline entering into engagements, a village settlement shall be
 “ made, and a preference given to the hereditary mokuddums of
 “ those villages to which the lands belong ; but no settlement is to
 “ be made with a Mokuddum for lands not included in his Mo-
 “ kuddumy. *Eleventh.* That in the event of neither proprie-
 “ tors, mokuddums, nor other respectable ryots, being forthcom-
 “ ing, such lands as are in that predicament will be held khaus.
 “ *Twelfth.* That all authorized abwabs are to be consolidated
 “ and incorporated with the land rent, and expressed in the pot-
 “ tahs and cabooleats ; and that nothing but what is there express-
 “ ed shall be collected from the ryots or under-renters. *Thir-*
 “ *teenth.* That all persons, who may enter into engagements for
 “ the settlement, must bind themselves by written obligations, to
 “ grant pottahs of the above description to their ryots and under-
 “ renters. *Fourteenth.* That all persons, who may enter into
 “ engagements with Government, must previously give secu-
 “ rity for the fulfilment thereof in an amount equal to the large-
 “ kist of their annual jumma. *Fifteenth.* Several of the tribu-
 “ tary Rajahs have been accustomed to furnish guards, and be
 “ responsible for all robberies committed within the Mogulbundy
 “ lands, bordering on their respective territories ; and for which
 “ they have formerly been allowed to levy a tax called chowpun-
 “ ny, or mongum khandity. Those Rajahs are to continue to fur-
 “ nish the usual guards and be subject to the same responsibility
 “ as heretofore ; but instead of being permitted to levy the above-
 “ mentioned tax, the said Rajahs will, until further arrange-
 “ ments can be made, receive an equivalent in money from Go-
 “ vernment. *Sixteenth.* Such being the provisions made for
 “ the preservation of the rights of the zemindars, ryots, &c. &c.
 “ and for the effectual prevention of undue exaction, there can-
 “ not be a doubt that confidence in the protection of Government
 “ will

Clause 10.

Clause 11.

Clause 12.

Clause 13.

Clause 14.

Clause 15.

Clause 16.

“ will be established amongst all ranks of people; that cultivation will be extended; and that the general prosperity of this province will rapidly increase.”

Section 5.
Confirmation of
rules and declarations in above
proclamation,
with explanation
of 3d and 4th clauses.

THE rules and declarations contained in the foregoing proclamation were confirmed by Section 5, Regulation 12, 1805, with an explanation of the third and fourth clauses, “ that the amount of the nankar, to which zemindars are or may be entitled, under their original engagements, for the first triennial settlement, shall be deducted from the actual yearly produce of their estates at the time of the expiration of each lease; and that the actual increase of public revenue, to be assessed agreeably to the clauses above specified, shall be calculated on the amount of the difference between the actual net produce, after such deduction; and the annual amount of the former lease.” It was at the same time provided, “ that the portion of the increased produce, relinquished to the zemindars under the abovementioned clauses, on the formation of the successive settlements, shall be considered to preclude all claim, on the part of the zemindars, to any further proportion of such increased produce, on account of nankar, in addition to the deduction originally made” and continued to them on this account. By Section 6, of the same regulation, it was notified to the zemindars, independent talookdars, and other actual proprietors of land, whose estates had been held khas, in consequence of their refusing to pay the assessment required from them, “ that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment, which shall be required from them, in conformity to the prescribed rules for the settlement of the land revenue.” By Section 7, the landholders and farmers were allowed a period extending to the end of the Vilayuttee year 1215, “ to complete the adjustment and delivery of pottahs in the mode prescribed” by the 13th Article of the above proclamation. By Sections 7, and 8, it was provided, that “ nothing in the proclamation, or regulation confirming it, should be construed to authorize the resumption of the rents of
any

Section 6.
Notification to
landholders,
whose estates
were held
khas.

Section 7.
Period allowed for granting
pottahs, as
required by 13th
article of proclamation.

Section 7 and 8.
Provision referring to
kingdoms affected for religious
endowments.

any lands assigned under grants from the Rajah of Berar, or from any zemindar, talookdar, or other actual proprietor of land in the zillah of Cuttack, as endowments of the temple of Jagernath, or of *Mulths* (Hindoo places of worship) in the vicinity of that temple, or for similar purposes; nor the resumption of the rents of any lands at present appropriated to the maintenance of airdar, or other pykes, for the support of the police; provided however, that any fixed quit rent payable by the holders of such lands, conformably to the tenor of their grants, shall continue to be paid agreeably to established usage." The commissioners having granted sunnuds to the zemindars of killahs Durpum, Sookindah, and Muddoopore, entitling them to hold their estates at a fixed jumma in perpetuity, those sunnuds were confirmed by Section 33, Regulation 12, 1805. A sunnud granted to FUTTEH MAHOMED, jagheerदार of Malood, entitling him and his heirs for ever to hold his lands exempt from assessment in consideration of services to the British Government, was likewise confirmed by Section 34, of the same Regulation; and Section 35 confirmed a settlement made by the commissioners with the zemindars of killahs Aull, Cujang, Puttra, Humishpore, Mirichpore, and Bisheepore, whose estates are situated chiefly in the hills and jungles, "for the payment of a fixed annual quit-rent in perpetuity." The zemindars of Cordah and Kunka being of the same description, a similar settlement was further ordered to be concluded with the zemindars of these mehals, as soon as circumstances might admit of it. Engagements for a fixed quit-rent, or tribute, were also taken by the commissioners, or in the territory of Mohurbunge ordered to be taken by the collector, from the proprietors of certain jungle, or hill zemindariæ, occupied by a rude and uncivilized race of people; and specified, with the form of engagement entered into by them, in a former part of this Analysis.*

THESE mehals were, for the present, exempted from the general regulations; but, with this exception, all regulations, relating

Or for the maintenance of officers of the police.

Section 33.
Sunnuds granted to certain zemindars for a fixed jumma in perpetuity.

Section 34.
And to a jagheerदार, exempting his land from assessment.

Section 35.
Settlement made with certain other zemindars at a perpetual quit rent.

Jungle and hill mehals referred to excepted from general

directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or native, in the provinces of Bengal, which are not superseded by the special rules prescribed in Regulation 12, 1805, were, by Section 36, of that Regulation, "extended to and declared to be in force in the zillah of Cuttack; provided that nothing therein contained shall be construed to authorize the division of the lands comprised in any estates in the zillah of Cuttack, in which the succession to the entire estate devolves, according to established usage, to a single heir. In cases of this nature, the courts of justice are to be guided by the provisions of Regulation 10, 1800."*

THE only further provision in Regulation 12, 1805, which requires notice in this place is, "that all engagements for the payment of the public revenue by the zemindars, farmers, and other holders of land, shall be made in Calcutta sicca rupees, of the nineteenth sun." But as they might not immediately have the means of paying their revenue in that species, they were allowed, by Section 13, of the above regulation, and subsequently by Sections 8, 9, and 10, of Regulation 4, 1807, to pay rupees of sorts, at the usual rates of batta, till the expiration of the Villayuty year 1215; after which no rupees, excepting Calcutta siccas of the nineteenth sun, were to be received into the public treasury, "unless the Governor General in Council deem it necessary to dispense with the observance of that rule by a public proclamation, for a specific and limited period of time."

By Section 6, of Regulation 10, 1807, the rule already stated, respecting the settlement of the upper provinces, for rendering the jumma assessed upon the estates of the landholders in the last year of the prescribed quartennial settlement (from 1216 to 1219) fixed for ever, in case the zemindars should be willing to engage for such jumma in perpetuity, "and the arrangement receive

" the

* See Volume 1, page 196.

“ the sanction of the Court of Directors,” was extended to Cuttack; and directed to be carried into effect under the orders and superintendence of the Board of Revenue; whose authority over the local collector had succeeded that of the original commissioners. But obstacles having occurred to the immediate conclusion of a permanent settlement in this district, and it being deemed advisable that a second local commission should be appointed for the superintendence of the ensuing settlement, such parts of Sections 5, and 6, Regulation 10, 1807, as authorized a settlement in Cuttack for four years, from the commencement of the year 1216, with a provision for rendering the jumma of the last year perpetual, if approved by the Court of Directors, were rescinded by Section 2, Regulation 6, 1808; and the following rules were enacted by the two succeeding sections of that regulation. 1. “ A settlement shall be made in the zillah of Cuttack, and in the pergunnah of Puttaspore &c. (included in zillah Midnapore) for the period of one year, viz. the Umlee year 1216.” 2. “ On the expiration of the Umlee year 1216, a settlement shall be made in the said zillah and places on the principle prescribed in Sections 5, and 6, Regulation 10, 1807, for the period of three years; and the assessment which may be fixed on the lands, in the year 1219, shall remain fixed for ever, in case the zemindars shall now be willing to engage for the payment of the public revenue on those terms in perpetuity, and the arrangement shall receive the sanction of the Honorable Court of Directors.” It was, at the same time, enacted by Sections 5, and 6, of the regulation above mentioned, that “ a commission shall be constituted, consisting of one or more members, (as the Governor General in Council may direct) for the superintendence of the ensuing settlements, and for the general control of the collector of Cuttack, and of the Officer entrusted with the charge of the pergunnah of Puttaspore and its dependencies, in the performance of their public duties. The commissioner or commissioners shall be vested with all the duties, powers, and authority, which have hitherto been exercised by the Board

Preamble to Reg. 6, 1808, and section 1, alteration made in above rule, and further provision made for a permanent settlement.

Section 2. To be made, in 1216, for one year.

Section 4. Afterwards for three years; and to remain permanently fixed for ever.

Section 5, 6. A commission appointed to superintend settlement.

Reg. 4, 1812.
Section 2.
Commission dis-
continued when a
part object of it
had been ac-
complished.

Reg. 10, 1812.
Section 2.
And rules for a
fixed settlement
in perpetuity re-
scinded in con-
sequence of or-
ders from Court
at Dacca.

Section 3.
Original in 6, 17
Sixth article of
proclamation,
which some
times declared
to be in force.

Section 4. 9.
And Board of
Revenue di-
rected to carry
it into effect;
and be ore fixed
with resp. to
upper provin-
ces.

Reg. 1, 1819.
Further rules
established for
settlement of
Cuttack and its
dependencies, at
the expiration
of the Umlee
year 1219.

of Revenue, in the District of Cuttack, and in the pergunnah of Puttaspore, and its dependencies. This commission was discontinued, after the objects of it had been accomplished, by Regulation 4, 1810; and in consequence of orders from the Honorable Court of Directors, under the discretion reserved to them, determining against the expediency of an immediate perpetual assessment, where it had not been definitively fixed, (as more fully stated under the Head of *Assessment of the Upper Provinces*,) the provisions of Regulation 6, 1808, for an eventual settlement in perpetuity, were virtually (though from an apparent inadvertency not expressly) done away by Section 2, Regulation 10, 1812; which rescinded "such parts of Sections 5, and 6, Regulation 10, 1807, as declare provisionally that the Jumma, which may be assessed on the estates of zemindars and other actual proprietors of lands, (in the conquered provinces, lying on the right and left banks of the jumna, the district of Bundelcund and Cuttack,) shall remain fixed for ever." The original rule, contained in the sixth article of the proclamation, issued by the Commissioners on the 15th September 1804, for a permanent settlement, at the end of 1222, of such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable, was, at the same time, declared to be "in full force and effect;" and the Board of Revenue were directed to proceed in such cases, as well as in cases wherein the estates of the landholders might not appear to be in a state to admit of the conclusion of a permanent settlement, at the time specified, in like manner as the Board of Commissioners for the upper provinces were directed to proceed under the provisions already mentioned of the same regulation.

The provisional rule for a settlement of three years, at the expiration of the Umlee year 1219, which was contained in the fifth clause of the proclamation issued in September 1804, being considered still in force under the provisions of Regulation 10, 1812, and the delays which had occurred in carrying the original rules

into

into effect appearing to render it inexpedient, that a settlement should be immediately made for so long a period, the following additional rules were enacted by Regulation 1, 1813. *First.* "A settlement shall be made in the zillah of Cuttack, and in the pergunnah of Puttaspore, and its dependencies, for the period of one year, viz. the year 1220 Umlee. *Second.* "On the expiration of the Umlee year 1220, a settlement shall be made in the said zillah and places, for the period of two years, viz. 1221 and 1222. *Third.* On the expiration of the year 1222, the Board of Revenue will of course conform to the provision contained in Section 5, Regulation 19, 1812, respecting the future settlement of the said district and places."

It may be added, in conclusion of this article, that a member of the Board of Revenue was again deputed to the district of Cuttack for the purpose of making arrangements connected with a permanent settlement of that district; and that the assessment of the land included in it, for the Umlee year 1222, or 1814-15, amounted to sicca rupees 11,81,079; exclusive of sicca rupees 63,321, the jumma of Puttaspore, &c. annexed to zillah Madnapore.

A member of the Board of Revenue again deputed to Cuttack, for the purpose of making arrangements for the permanent settlement.



5. *COLLECTION OF THE LAND REVENUE.*

General principles of the system established in 1793 already stated.

Further details of the system are given in the preamble to Regulation 11, 1793, as respects the powers of the collectors.

THE general principles of the judicial and revenue systems, established in the year 1793, have been already stated in the first part of this Analysis. As respecting the powers vested in the collectors of the public revenue, under personal responsibility for all wilful and injurious deviations from the rules prescribed for their guidance, they are further declared in the following preamble to Regulation 11, 1793. “ To ensure the punctual collection of the annual revenue payable to Government by the proprietors and farmers of land, it is essential that the collectors should be armed with powers to enforce the discharge of it without having recourse to the courts of justice; as the delay that must necessarily attend the institution of a law process, for the recovery of every arrear, would encourage persons destitute of good faith to withhold the public dues, and render the collection of them a source of endless litigation. It is equally requisite, upon general principle, that the collectors should exercise these powers at their own peril, that they may be deterred from abusing them for the purposes of exaction and oppression, whereby the improvement of landed property would be discouraged, and the value of it continue uncertain and consequently depreciated. The collector having in their possession the engagements of the proprietors and farmers of land, which specify the amount of the annual revenue that they have respectively agreed to pay, with the monthly proportions in which it is to be discharged, and also the rules defining the process by which they are to compel the payment of arrears, can never suffer from unjust prosecutions, so long as they are careful not to infringe those rules and engagements; as the courts of justice, at the same time that they will restrain them from abusing their power, will always support them in the due exercise of it for enforcing payment of what they are authorized to demand on behalf of the state. On the other hand, the proprietors and farmers of land will be able to prevent the powers, delegated to the collectors of revenue, being exercised to their detriment, by performing punctually the engagements which they have voluntarily entered into with the public.

public. Until they previously violate those engagements, the collector will have no authority to issue any process affecting either their persons, rights or property; and if he exceeds or abuses the powers vested in him, they will be able to obtain redress for the injury which they may sustain, by prosecuting him in the courts of justice."

In a late report from a committee of the House of Commons* it is observed, that "under the native Governments the recovery of arrears from defaulters was sometimes attempted by seizure and confiscation of personal property; or by personal coercion. The zemindar might experience the mortification of having the administration of his zemindarry taken out of his hands, and entrusted to a sezawul. He might be imprisoned, chastised with stripes, and made to suffer torture, with the view of forcing from him the discovery of concealed property. He was liable to expulsion from the zemindarry. He might be compelled to chuse either to become a Mosulman, or to suffer death. But under whatever degree of adversity the zemindars might fall; or whatever might be the extremity or injustice, or cruelty, practised on them; they had still the consolation of preserving their rank, and being considered as zemindars. They themselves might come under the displeasure of the Government, and experience its severities; but their families would still maintain the consideration due to their station in society; with the chance of recovering, in more favorable times, the possession of their zemindarries. The policy of these Governments was adverse to the dispossession of a zemindar, who, by means of his family connexions and cast, might return and disturb the possession of his successor. Hence it appears that even in cases when a zemindar, from rebellion or other misconduct, was deemed deserving of death, the succession of a relation, or of an infant son or widow of the late zemindar, under tutelage, was generally deemed preferable to the introduction of a stranger to the possession of the

Policy and practice of native Governments of India, with respect to means of recovering arrears of revenue, without having recourse to a transfer of the defaulter's lands.

* Fifth report of select committee, dated 28th July 1812, page 153.

Observations of
a committee of
the House of
Commons on the
subject, confirmed
by a narra-
tive of transac-
tions in Bengal,
from 1696 to
1756, especial-
ly during the ad-
ministration of
JAYEER KHAN.

zemindarry." These observations are confirmed by an historical narrative of transactions in Bengal, during the soobadaries of AẒEMOOSHAP, JAYEER KHAN, SHUJĀ KHAN, SIRIRAZ KHAN, and ALIVERDY KHAN, comprising a period of sixty years, from 1696 to 1756;* especially by the description given in it of the administration of JAYEER KHAN, (originally called MOORSHID COOLĀ KHAN when AURUNGEZEE conferred upon him, with the title, the united offices of soobadar and dewan of Bengal and Orissa) who is praised by his admiring historian, as an ameer (nobleman) with whom no one could be compared, since the time of SHAYKH KHAN (the maternal uncle of AURANGZEB) "for zeal in the propagation of the faith; for wisdom in the establishment of laws and regulations; for munificence and liberality in the encouragement and support given to men of family and eminence; for rigid and impartial justice, in redressing wrongs and punishing offenders; in short whose whole administration so much tended to the benefit of mankind and the glory of the Creator." After removing the seat of Government from Dacca to Moorshedabad (which city was called after his name) "for the purpose of making a fuller investigation of the capacity of the lands, he ordered the zemindars into close confinement; and put the collections into the hands of Bengally aumils, who executed *whonds* and *mo-chunkars*." (Engagements for the revenues, and for appearance and good conduct.) "When he had thus entirely dispossessed the zemindars from the management of the collections, his aumils and their officers made an actual measurement of all the lands in cultivation, as well as of those called *banjer* (fallow), and obtained information of the ability of every husbandman in every village throughout the Soobah. He made an exact *hustabood*, or comparative statement of the collections of former years with the present; and conformably thereto, his aumils collected the produce of every harvest immediately from the husbandmen. He resumed all the extra expenditures of the zemindars; and gave them a *nankar* (provision in land or money) barely sufficient for a subsistence.

* See Mr. GRADWIL'S translation of this narrative; written in Persian by an unknown author; and presented to Governor VANSITTART.

“He afterwards continued to make the collections through his *aumils*, by displacing the *zemindars*, with a few exceptions, where he found them worthy of trust and confidence. He admitted of no charge of *sehundy* (an allowance for servants employed in collecting the revenues,) nor for the maintenance of an army. Two thousand cavalry and four thousand infantry were sufficient for all his purposes. NAZIR AHMED, who had been originally a foot soldier, was able to enforce payment of all the revenues of Bengal. The regulations and orders of MOORSHID KOOLY KHAN were so absolute, that the most refractory trembled in his presence; and his commands were so implicitly obeyed, that it was sufficient to send a foot soldier to sequester a *zemindarry*, or punish an offender at the greatest distance.” It is added that “until the monthly instalments were paid into the treasury, he would not suffer any body to be at rest. He put strict *mohussils* (guard) over the *mutsuddies*, *aumils*, *canoongoes*, and their officers, and confined them in the *cutcherry*, or in the *dewankhaneh* of *chehelsetoon*, (literally forty pillars; the Newab’s palace at Moorshedabad,) where they were refused victuals and drink, and not suffered to perform the other necessary calls of nature. *Hircarrahs* were also employed to discover if any of the *mohussils* were bribed to allow them even a drop of water, and they were sometimes kept in this manner so many days as to be brought to the point of death, and reduced to skin and bone. If their servants brought them any sustenance, with the connivance of the *mohussils*, if discovered they were seized by the *hircarrahs*, and severely punished. To these severities were added the cruelties of NAZIR AHMED. He used to suspend the *zemindars* by the heels, and after rubbing the soles of their feet with a hard brick, bastinado them with a switch. In the winter he would order them to be stripped naked, and then sprinkled with water. And he also used to have them flogged till they consented to pay the money. MOORSHID KOOLY KHAN employed none but Bengally Hindoos, in the collection of the revenues, because they are most easily compelled by punish-

ment to discover their mal practices ; and nothing is to be apprehended from their pusillanimity. When he discovered that an aumil, or zemindar, had dissipated the revenues, and then, falling in balance, was unable to make good the deficiency, he compelled the offender, his wife and children, to turn Mahomedans." SEIF KHAN, who was related to the royal family, and appointed by JAFER KHAN to be Governor of Purnea, with absolute powers, is stated (in the narrative from which the above extracts are taken,) to have "followed the example of JAFER KHAN, by imprisoning all the zemindars;" and SYUD REZEN KHAN, who was married to the granddaughter of JAFER KHAN, and succeeded SYUD EKRAM KHAN in the office of naib dewan of Bengal, is represented to have exercised the following "new species of severity on the zemindars and aumils who fell in arrears. He ordered a pit to be dug, about the height of a man, which was filled with human excrement, in such a state of putrefaction as to be full of worms, and the stench was so offensive, that it almost suffocated whoever came near it; and because, in the Hindoos language Biekoont signifies Paradise, SYUD REZEN KHAN, in contempt of the Hindoos, called this infernal pit by that name. The zemindars, or aumils, who failed in their payments, after undergoing the severities before described, were ducked in this pit. He also used to oblige them to wear leather long drawers, filled with live cats. He would force them to drink buffaloe's milk, mixed with salt, till he brought them to death's door by a diarrhoea. By these means he used to collect the revenues to the uttermost dain."

But severities
exercised under
a Mahomedan
government
could not be tol-
dered under a
British adminis-
tration.

BUT if such severities ever were exercised under a Mahomedan Government, it is evident they could not be suffered to exist under a British administration ; and I copy with pleasure a note from Mr. GRADWIN, the translator of the narrative referred to, on the character given by his unknown author of the Nazim JAFER KHAN ; who died in the year 1725, after having held the soobadary of Bengal during some years of the reign of AURUNGEZEB, the whole
reigns

reigns of his successors BEHADER SHAH, JEHANDAR SHAH, and FURUKHSEER, and part of the reign of MOHAMMUD SHAH. "Notwithstanding the high encomiums which are here bestowed upon the Government of JAFERR KHAN, his memory is universally execrated by the Hindoos; who contemplate, with heart-felt joy, the happy influence of the British sway over these regions; whereby they have been relieved from the direful effects of Mahomedan superstition; and are permanently secured from the merciless hand of tyranny, rapacity, and oppression."* The only modes of coercion, for the recovery of arrears of revenue, which could be consistently sanctioned by a British Authority, (besides the exaction of interest, or a penalty on the amount due) were imprisonment of the defaulter's person, and the attachment and sale of his property. Both of these modes were accordingly authorized, under restrictions to prevent an abuse of them, by the original rules of 1793; which required the collectors to cause the imprisonment, in the jail of the civil courts, of any defaulting landholder or farmer, who should not have discharged a third of the instalment of any one month, by the fifteenth of the following month; and after being served with a written demand for the arrear, should omit to pay the amount within the time limited; unless the collector should be satisfied of the defaulter's inability

Mr. GLADSTONE's note on the character of JAFERR KHAN.

What modes of coercion could alone be sanctioned by a British authority.

These modes authorized by original rules in Regulation 14, 1793.

* Note to page 116 of translation of narrative. ORME, in the second volume of his military transactions, page 19, speaking of JAILLER KHAN, says, that "every year of his administration was marked by extraordinary and increasing extortions; not only from the Europeans; but from all ranks of people in the province," and adds, that "he was as much dreaded for his abilities, as detested for his iniquities." He further states that in 1718, "JAILLER received from Delhi the patents he had long solicited, annexing the provinces of Bahar and Orissa to his Government of Bengal, and the reversion of the whole to his heir." But this is not mentioned by the author of the narrative presented to Governor VANSITTART. He states only that "on the death of SYUD REZER KHAN, Dewan of Bengal, the Emperor FURUKHSEER (who reigned from 1713 to 1719) at the intreaty of JAFERR KHAN, appointed to that office his grandson, MIRZA ASSUDULLAH, the son of SHUJA-ED-DEEN MAHOMMED KHAN, Nazim of Orissa. With this appointment ASSUDULLAH obtained the title of SIRAJRAZ KHAN." SHUJA-ED-DEEN, who married the daughter of JAFERR KHAN, had, on the latter's obtaining from AURUNGZEB the offices of Dewan and Soobadar of Bengal and Orissa, been appointed his Naib Dewan in Orissa. But he appears to have subsequently obtained the Soobadary of that province, and to have held it at the time of JAFERR KHAN's death.

to make good the sum due from him, in consequence of losses from drought, inundation, or other calamity of season; in which case he was directed to suspend the exercise of the powers vested in him. On the confinement of a landholder or farmer, the collector was to depute an aumeen, with a proper establishment of officers, to collect the rents of the estate or farm of the defaulter. At the end of the year, if the arrear, with interest, were not liquidated, either by the aumeen's collections, or by the payments of the defaulter, the landed property of the latter, and if a farmer who had given security, the property of his surety also, was liable to be sold, with the previous sanction of the Governor General in Council, on a report of the circumstances of the case. But a proprietor, or farmer of land, denying the whole or any part of the arrear claimed from him by the collector, and giving security to institute a suit in the zillah dewanny adawlut, within ten days, to try the justness of the demand, and pay the amount adjudged against him, with interest and costs, was allowed to stay the process against him, whether by imprisonment or a sale of property, until judgment should be given in the zillah court. There being ground to believe, that many proprietors and farmers of land had availed themselves of the provision, (contained in Sections 9, 10, 11, 14, and 22, of Regulation 11, 1793,) to withhold payment of what was justly due from them, merely to gain the time unavoidably incident to a judicial trial; they were rescinded by Section 11, Regulation 3, 1794; and landholders and farmers were declared bound to discharge, in the first instance, all sums regularly demanded from them by the collector on the part of government; with liberty to sue the collector for any undue exaction in the dewanny adawlut; and on proof to obtain a refund from the public treasury, with interest at the rate of twelve per cent per annum. The Governor General in Council, at the same time, considering the property of the landholders to be "a sufficient security for the public dues; and being desirous to refrain from every mode of coercion not absolutely necessary for realizing them;" provided, by Sections

Provision made, at the same time, for enabling proprietors and farmers of land, to stay process for their imprisonment and sale of their property.

These provisions, in Sections 9, 10, 11, 14, and 22, of Regulation 11, 1793, rescinded by Section 11, Regulation 3, 1794.

Section 11, Amendment declares a farmer bound to discharge sums demanded from them, in the first instance.

With liberty to sue collector for any undue exaction, and to obtain a refund from the public treasury.

Preamble to Regulation 3, 1794, and Sections 2, 14.

Proprietors of land exempted from imprisonment for arrears, except when irrecoverable from a sale of their property.

3, and 14, of Regulation 3, 1794, that proprietors of land should not be liable to personal confinement for arrears of revenue, or other demands on the part of government, except in cases when the amount due from them might not be recoverable by the public sale of their landed and other property. Provision however was made (by Sections 4 to 10 of the abovementioned Regulation) for an immediate sale, with the sanction of the Governor General in Council, of the lands of any defaulting proprietor, from whom the whole, or a portion, of the instalment of any one month, might remain undischarged on the fifteenth of the following month; and might not be paid on a written notice from the collector, within a limited period. But the frequent and successive sales of land within the current year, which took place under the operation of Regulation 3, 1794, were "found productive of material ill consequences, as well towards the land proprietors and under tenants, as in their effect on the public interest in the fixed assessment of the land-revenue." Considerable delays also occurred in the payments of many of the landholders, which, though ascribable, in some instances, to the insufficiency of the powers which they had been allowed to exercise for enforcing payment of the rents due to them from their tenants, could, in others, be imputed only to a want of good faith on the part of the landholders; who, taking advantage of the delay with which the process for disposing of their lands was unavoidably attended, withheld payment of their instalments until the day appointed for the sale; and then, as there was reason to believe, bought in their lands, under fictitious names, or the names of irresponsible defendants. "With a view to obviate the above injurious consequences, and to establish a more certain and easy process for enabling landholders and farmers of land to realize their rents, and the officers of Government to enforce payment of the public revenue, without having recourse to sales of land till the close of the year," new rules were established, for the provinces of Bengal, Behar, and Orissa, by Regulations 7, 1799,

Sections 4 to 10.
Provisions for
an immediate
sale of land with
the sanction of
government,
for arrears not
paid on de-
mand.

Preamble to
Reg 7, 1799.
Ill consequen-
ces from fre-
quent sales
within the cur-
rent year.

And ree use
withheld by
landholders
to delay in
disposing of
their lands to
sale.

Landholders
also bought in
their own
estates, at the
public sales, in
other names.

New rules to
obviate these
consequences, in
Regulations 7,
1799, and 15,
1801.

Extended with
modifications to

Rents and duties for provinces, by Regulations 5, 1800, and 27, 1803, and still in force.

Except discretion to levy a penalty, in addition to interest upon arrears in certain cases, which is rescinded by first clause of Section 28 Regulation 5, 1812.

General rule for charge of interest upon arrears, and periodical accounts of interest, in second and third clauses of above Section.

and 1, 1801, which have been extended (with modification hereafter noticed) to the other provinces by Regulations 5, 1800, and 27, 1803; and are still in force; except that a discretion vested in the Board of Revenue, by part of Section 2, Regulation 1, 1801, to impose a penalty of one per cent per mensem, in addition to the prescribed interest, upon arrears wilfully withheld by the defaulter, or ascribable to his neglect, mismanagement, or misconduct, when it might not be judged expedient to attach his lands, is rescinded by Section 28, Regulation 5, 1812, in consequence of "inconvenience having been experienced from the existence of the complex demand of interest and penalty." It was at the same time made a general rule for all the provinces, that "in cases in which the proprietors and farmers of land shall fail to discharge the instalments of each succeeding month, on or before the first of the month following, they shall uniformly stand charged in the public accounts with interest from that date, at the rate of twelve per cent per annum, nor shall it be competent for the collectors to remit any part of that demand by their own authority. Provided however, that if the Board of Revenue, and Board of Commissioners, shall see any special reason, in consequence of reports which may be received by them from the collectors, for remitting the interest, those authorities shall be competent to order it to be relinquished accordingly. It shall be the duty of the Board of Revenue, and Board of Commissioners, to obtain such periodical accounts of the interest, as may enable them, on comparing the said accounts with the monthly towjees, not only to judge whether the demand for interest has been properly adjusted, but likewise to ascertain the amount realized on that account, and the amount which may be at any time outstanding. On examination of the accounts required, the Board of Revenue, and Board of Commissioners, will furnish the collectors with any instructions, which the nature and circumstances of the case may appear to require." The rules contained in the regulations above noticed, for enabling proprietors and farmers of land to enforce the punctual discharge of the rents due to them

from

from their tenants, will be included in the fourth part of this work. Such as relate to the collection of the public revenue will now be stated, with the whole of the rules which are in force for this purpose, throughout all the provinces; beginning with those of Bengal, Behar, and Orissa; at least such of them as it will be convenient to distinguish from the rules established for Benares and the upper provinces.

The whole of the rules in force for collecting the land revenue will now be stated.

And first those established for the lower provinces.

1. "If the whole or a portion of the kist, or instalment, payable for any month, by a proprietor or farmer of land, shall remain undischarged on the first of the following month, the sum so remaining unpaid is to be considered an arrear of revenue."

Regulation 14, 1793, Section 2. What is to be considered an arrear of revenue.

2. "Every proprietor of land (which designation, whenever it occurs in any regulation, is to be considered to include zemindars, independent talookdars, and all actual proprietors of land who pay the revenue assessed upon their estates immediately to Government) and farmer of land, is to cause the whole of the instalment for each month to be paid into the treasury of the collector of the zillah, or to the tehseeldar, or other officer who may be appointed to receive the public revenue assessed on his estate, or farm, on or before the first day of the following month, without waiting for the amount being demanded by the collector, or the tehseeldar, or other officer." 3. In the event of any arrear of revenue being undischarged on the first day of the month succeeding that for which the arrear may be due, the collector, if the revenue be payable into his treasury, or if not, the tehseeldar, or other public officer, to whom the same may be payable, is immediately to require payment thereof, with interest at the rate of one per cent per mensem, in the following manner. 4. If the arrear be payable at the treasury of the collector, "he is to demand the discharge of it (with interest from the date on which it becomes due) by a writing under his official seal, and attested by his signature and that of his de-

Regulation 3, 1794, Section 2. Proprietors and farmers of land to pay the kist of each month on or before the 1st of the following month, without waiting for its being demanded.

Regulation 7, 1799, Section 23. Clause 2. Penalties of arrears, with interest, when and how, to be demanded.

Regulation 14, 1793, Section 2. Written process to be issued by the collector.

* The office of collector's dewan having been abolished by Regulation 15, 1793, (see page 134,) the papers heretofore attested by the *dewan*, are now authenticated by the *sherishtadar*.

wan, specifying the amount of the arrear and date on which it became due, and requiring it to be paid at the treasury of the collectorship within a certain number of days after the day on which the writing may be served.* In fixing the day for the payment of the arrear, the collector is to advert to the distance of his place of residence from the estate or farm of the defaulter, and allow a reasonable time for him to convey the money to the public treasury. The collector is to deliver the writing to a single peon, with directions to proceed either to the principal cutcherry of the defaulter in the estate or farm, on account of which the arrear may be due, or to the usual place of abode of the defaulter, if it be within the limits of his zillah, according as he may deem advisable. The defaulter, or his head officer in attendance in such cutcherry, is to grant, and the peon is to take, a receipt for the writing, specifying the date on which he may present it. The defaulter, or his officer abovementioned, is to pay to the peon two annas per day for his subsistence (excepting in districts where

* This rule and similar rules for Benares and the upper provinces have been lately modified by Section 2, Regulation 18, 1814, on the ground stated in the preamble to that regulation, that "the existing rule for serving written notices of the demand of an arrear of revenue, in all cases, make it necessary to levy from defaulters sums for the subsistence of the peons serving such notices, which, with respect to the inferior landholders, is frequently productive of great inconvenience and loss." It is therefore provided, "that whenever any portion of an instalment of revenue, payable in any month, remains undischarged on the first of the following month, the collector may forthwith, or at any subsequent time (such arrear still remaining undischarged) cause to be served on the defaulter a written demand (as directed by the regulations cited;) or without issuing or causing to be served such written demand, may advertise lands, the property of the defaulter, for public sale, without first submitting a statement of these lands for the previous sanction of the Board of Revenue, or Board of Commissioners, supposing the lands so advertised to constitute an entire estate, or the whole of the defaulter's rights and interests in a joint estate. But in such cases the collector shall, with all convenient expedition, report the same to the Board of Revenue, or Board of Commissioners; and shall await the receipt of the Board's sanction; and shall on no account proceed to the actual sale of lands so advertised without the express sanction of the Board, under whose authority he is placed. Provided that in all cases in which the lot proposed to be sold constitutes a part only of the defaulter's property in an estate, such lot shall not be advertised for sale without a statement thereof, and of the jumma or revenue proposed to be apportioned thereon, being previously submitted to the Board of Revenue, or Board of Commissioners, and the sale thereof sanctioned by the Board's authority."

custom has fixed the subsistence money of peons at a lower rate, in which case such lower rate and no more shall be exacted) for the time allowed for delivering the writing and returning to the collector. The name of the peon who may be deputed, the amount of his subsistence money, and the number of days for which he is to receive it, is to be endorsed on the writing. If the peon deputed to serve the demand for the arrears shall not meet with or be able to gain admittance to the defaulter, or his head officer, by the evening of the day following the day on which he may arrive at his usual place of abode, or at his cutcherry above specified, or if the defaulter or his head officer shall refuse or omit to give the receipt above required to the peon, immediately upon his presenting the writing, he is, on the same evening, to fix up the writing on the outer door or gate of such place or cutcherry, and return to the collector, to whom he is to report the date on which he may have fixed it up. Written demands for arrears so presented to a defaulter or his head officer, or fixed up at his usual place of abode, or his cutcherry beforementioned, shall be considered to have been duly served upon him."

5. "When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a tehseeldar, or other officer appointed by Government to collect it, such officer is to demand the payment of the arrears by the same process as collectors are required to observe in requiring the discharge of arrears.* If the defaulter shall not liquidate the arrears by the prescribed period, the tehseeldar or other officer is to report the amount of the arrear to the collector, who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietor, or farmers, paying revenue immediately to the treasury of the zillah." 6. If the arrear be due from a zemindar, independent talookdar, or other actual proprietor, or farmer of land, and be not discharged according to the requisition of the collector, tehseeldar, or other officer, empowered to demand the same, in the manner above describ-

Reg. 3, 1794,
Sec. 113
C. 117, 118
Reg. 1, 1797,
Sec. 110
1797, Section
113. How tech-
seeldar is to
report public of
finances to re-
quire payment
of arrears from
proprietors or
farmers paying
revenue to them.

Reg. 7, 1799,
Sec. 13, Cl. 11.
Qualified by
Reg. 1, 1801,
Sec. 2. Collector
how to proceed,
if the arrear due
from a land-
holder, or farmer,
be not paid, or
demanded, or af-
ter notice given.

* See preceding note.

for the speedy
payment of it.

ed; or assurance given for the immediate payment thereof, to the collector's satisfaction; and the first three months of the Bengal, Fussily, or Villayuty year (according to the era current in the several zillahs) shall be elapsed; and the collector, under all the information obtainable by him of the real cause of arrear, shall judge it expedient to attach the estate, or farm, of the defaulter; with a view to induce payment of the arrear by him; or to prevent his misappropriation of the remaining rents of the year: or to obtain accurate information of the assets of the defaulter's estate, for the purpose of disposing of a portion of it by public sale; in all such cases, the collector is to depute an aumeen, with a proper establishment of officers, to attach the estate, or farm, of the defaulter; and to collect the rents therefrom, under the provisions hereafter mentioned relative to attachments. 7. In consideration of the inconvenience and injury

Reg 1, 1801,
Sec 4.
Restriction as
against attach-
ments of any
estate, or farm,
during first
three months
of the current
year, without
sanction of the
Board of Re-
venue.

to landholders, and farmers of land, from attachments, by the officers of Government, of their estates and farms, in the early part of the year, whilst they are adjusting their mofussil settlements for the year, it is provided "that no collector shall attach the estate or farm of any proprietor or farmer of land, for arrears of revenue, during the first three months of the Bengal, Fussily, or Villayuty year, (according to the era current in the several zillahs,) without the express sanction and order of the Board of Revenue, on a report of the case to be made to them by the collector." But it is added, that this restriction "shall not be considered applicable to attachments made in the preceding year, and continued after the expiration of it, with a view to the lands being brought to sale, for the recovery of the arrear due from them." 8. The collectors are further restricted from attaching a defaulter's estate or farm, after the third month of the year, without the sanction and order of the Board of Revenue, unless they shall consider it expedient for the purposes mentioned in the sixth rule. "If the crops in any estate or farm shall have been damaged or destroyed by drought, inundation, or calamity of season, or from any

cause

Reg 1, 1801,
Sec 2.
Further restric-
tions upon at-
tachments after
the third month
of the year.

Reg 14, 1801,
Sec 8.
Reg 1, 1799,
Sec 23.
Provision for
sales of land.

cause not originating in the neglect, mismanagement, or misconduct of the proprietor or farmer; and such proprietor or farmer shall fall in arrears; and the collector shall be satisfied, from the best information which he may be able to obtain, that the defaulter is unable to make good the arrears by the period limited in the written demand for the payment of them, either from the collections from his estate or farm, or from his private funds, or property, or by a loan; he is directed to suspend the exercise of the powers vested in him, and to report the circumstances of the case to the Board of Revenue; who may suspend the enforcement of the current kists, as well as of the interest due thereupon in such cases, but are not to grant any ultimate remission of the amount demandable on the permanent assessment without the sanction of the Governor General in Council.”* The collectors are also to report to the Board of Revenue, whenever they may not carry into execution the general rule for attachment, after the expiration of the third month of the year; “and if the result of the fullest inquiry they may be able to make, in such cases, shall induce them to believe the arrear wilful, or owing to the neglect, mismanagement, or misconduct, of the defaulter, they are to state the same, with a summary of the inquiry made by them.” A full discretion being now vested in the collectors (subject to the control of the Board of Revenue,) for suspending the enforcement of the rule of attachment whenever they may judge it to be expedient, “it is expected that they will be particularly careful to inform themselves, as far as possible, in all instances of arrear, of the real cause of arrear; whether want of good faith on the part

inundation, or
other calamity.

Reg. 1, 1801,
Report to be
made to the
Board of Revenue
whenever
the collector
may not carry
into execution
the rule of at-
tachment after
the third month
of the year

And general
instructions
issued to the
collectors of the
districts
in 1801

* The following extract of a letter from the sub secretary to Government, dated 20th October 1799, is applicable to cases of alleged inundation. “The Governor General in Council observes, that it does not appear, from the reports submitted by the collector of Nudlea, respecting the inundation in that district, that he has made any personal observations on the state of the country—His Lordship directs that the Board will order the collector to repair immediately to the places where the inundation is stated to have prevailed most extensively, and to ascertain with respect to the real injury which the crops have sustained.—The present order, the Governor General in Council observes is applicable to all cases of inundation; and he accordingly desires that the Board, on cases of this nature being reported to them in future, will immediately order the collector to make the inquiry above directed

of the defaulter, or actual inability from a failure in his rents or otherwise; so that the proper remedy may be applied to the ascertained circumstances of the case, and neither the public interests be injured by unmerited indulgence; or those of the individual suffer from undue severity. When the collectors, from the reports of their mofussil officers, or from other information obtained by them, may have good reason to believe, that a defaulter has done his utmost to pay his revenue, but has been prevented by real inability, not proceeding from any deficiency, the attachment of his lands, whilst productive of expense and inconvenience to him, can produce no adequate advantage to Government. On the other hand, if it be known that the defaulter has the means of making good his arrear; or that the attachment of his lands will afford assets for the payment of it, which might otherwise be misappropriated; the attachment would be evidently just and expedient; and whatever expense, or other consequences might arise from it to the defaulter, would be chargeable to his own misconduct. The local officers of Government can alone make this discrimination; and the Board of Revenue, in their reports to the Governor General in Council, upon the tow-gee accounts of the collectors, are required to notice their attention, or otherwise, to this important part of their duty.”

Reg. 14, 1793.
Sec 6 and 7.
7, 1793, Sec 6 and 7.
Establishments
of native officers,
in cases of
attachment by
whom to be
fixed, and of-
ficers by whom
to be attached.
ed.

9. When a collector may judge it advisable to attach the estate or farm of a defaulting landholder, or farmer, under the discretion vested in him, or whenever such attachments may be ordered by the Board of Revenue, or be necessary with a view to the public sale of lands, under the rules hereafter specified the Board of Revenue are authorized to fix the requisite establishments of native officers; and statements of all such establishments are to be submitted by the collectors for their approval, as soon as possible after the attachment may take place. “In preparing such statements the collectors are to be careful not to propose a greater number of officers, or greater allowances to the officers employed, than may be indispensably necessary; and the Board of Revenue, in approving such establishments, are to give particular

particular attention that this principle is duly observed. The collectors are also to nominate, for the approbation of the Board of Revenue, the aumeens and other principal native officers, to be employed in the management of lands under attachment, with the sureties to be taken for their appearance under Section 15, of Regulation 3, 1794; and are held responsible for the utmost regard to the qualifications and character of the persons so appointed by them, as in all cases wherein native officers may be appointed by them to the charge of a khas collection." 10. The expense of the approved establishments of aumeens, deputed to attach the lands of a defaulting landholder, or farmer, and all other admitted charges attending such deputations, are payable by the defaulter; and ordered to be disbursed from the collections made from his estate or farm. All receipts from the attached estate, or farm, after paying such expenses, are to be carried to the credit of the defaulter, during the current year, in discharge of the arrear and interest due from him. And "if the arrear due at the time of attachment, with any further arrear that may become due from the same proprietor, or farmer, and interest thereupon at the rate of one per cent per mensem, be discharged at any period before the end of the current Bengal, Fussily, or Villayuty year (as the estate or farm may be situated in Bengal, Behar, or Orissa), together with any expense attending the attachment, which may not have been defrayed from the collections, the attachment shall be immediately withdrawn; and a full and fair account rendered of all receipts and disbursements during the continuance of it." The dewan, or head native officer of the defaulter, or any other person whom he may think proper to appoint, is to keep a counterpart of the receipts and disbursements of the aumeen; and the latter is declared subject to prosecution in the civil court, by the proprietor or farmer, for embezzlement, or injury to the estate or farm, during the time that the collection of the rents may have been entrusted to him. 11. The aumeen, is also liable to prosecution in the zillah court, for any infringement of the engagements that may subsist, at the time of attach-

Reg 14, 1793,
Sec. 6, and Reg.
7, 1809 Sec 3,
Cl 3
Expenses of at-
tachment by
whom to be de-
frayed and col-
lections of au-
meen how to be
appropriated.

In what case
attachment is
to be withdrawn.

Landholders
and farmers
may keep coun-
terparts of the
aumeen's ac-
counts, and sue
him for em-
bezzlement or
injury, in the
civil court.

Reg 14, 1794,
Sec 6 Reg 7,
1809 Sec 3,
Cl 3 Reg 1,
1811 Sec 4 to
7.

Rule for guidance of aumeen in collecting the rents of the estate, or farm, under attachment.

ment, between the defaulter and his tenants, whether dependent talookdars, under farmers, or ryots. If such engagements appear to be collusive, and contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents payable by the tenants, they may be set aside, on a summary inquiry, in the zillah court; but it is declared in Section 4, Regulation 5, 1812; that "neither any person deputed to attach lands on the part of Government, nor purchasers at the public sales, shall be deemed entitled to annul existing leases, within the year in which the attachment or sale may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a court of judicature; the case to be tried as a summary suit under Regulation 7, 1799." When no engagements may exist between the defaulter, and his tenants, or when the subsisting engagements may be judicially set aside as collusive, the aumeen is to collect the rents of the estate or farm under attachment, according to the established rates and usages of the pergunnah, if any such exist; or, if not, according to the rate payable for land of a similar description in the places adjacent.* It has been declared however in the third clause of Section 23, Regulation 7, 1799, that "after the promulgation of this regulation no anticipation of the rent will be admitted in cases of attachment. The landholders and farmers are forbidden to demand or receive, and the ryots and other under tenants are forbidden to pay, any part of the rents receivable by the former and payable by the latter, before the stipulated or usual period of payment, according to the kistbundy or other engagement or established local usage; and no person making anticipated payments, against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be en-

Provisions against anticipations of the rents.

* The restrictions hereafter stated, relative to purchasers of land at the public sales, are also partly applicable to aumeens, deputed to attach lands with a view to the sale of them. But the general principle, in such cases, seems to be, that as the aumeen is appointed to collect the rents payable to the defaulting landholder, or farmer, he should confine his demands, until the existing leases are cancelled, to what the landholder, or farmer, would have been entitled to receive, if the attachment had not taken place.

titled to credit for the amount from the officers of Government who may attach the lands or farm, or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant, under the provisions contained in this regulation. Nor shall credit be allowed for any payment made to a defaulter, after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn; unless it can be clearly shewn that such proclamation, which is to be made as public as possible throughout the attached lands, immediately on the attachment's taking place, was notwithstanding, unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided however, that nothing herein contained shall be understood to exonerate the defaulter from crediting to his under-tenants, or otherwise accounting for, all sums received by him, whether in anticipation of the rents, or subsequent to the attachment of his estate, or farm: the above restrictions having reference to the attachment only." 12. In all cases of attachment, the village putwarries, required to be appointed by Section 62, Regulation 8, 1793, are bound to furnish the collector, and the aumeen or other officer deputed by him, with the accounts directed to be kept by them. " Defaulting proprietors, and farmers of land, whose estates or farms may be attached, are also required to furnish the collectors with any accounts that may be required from them relative to the jumma, collections, and outstanding balances of the current year, or of preceding years, which may be in their possession; as well as to cause their agents, of every description, who may have been employed in the collections of the current year, to attend the collector, aumeen, or other officer appointed by him. Any proprietor or farmer who, on receiving a written requisition from the collector, under his official seal and signature, to the above effect, shall refuse or neglect to comply therewith, is liable to such fine as the Board of Revenue, with the sanction of the Governor General in Council, may think proper to impose upon him, on the collector's report of the circumstances

Reg. 7, 1799,
Sec. 23, Cl. 4.
Reg. 1, 1801,
Sec. 3.
Accounts to be
furnished by
putwarries,
and by default-
ers and their
agents, in cases
of attachment.
Penalties for
non-compliance,

of the case; and the Governor General in Council has reserved to himself the power of ordering the imprisonment of any landholder, or other person who may persist in refusing to deliver up the accounts required from him in any particular instance;" as well as "to order an immediate sale of the lands and other property of the defaulter, for the recovery of the arrears due from him." 13. If the estate or farm of a defaulter "be too inconsiderable to admit of its being charged with the expense of an aumeen, it shall be committed to the nearest tehseeldar or other officer employed under the collector in the business of the collections, who shall perform the duties prescribed to the aumeen, and under the same restrictions and penalties." 14. In the case of a defaulting farmer, who may have any landed property capable of attachment, independent of his immediate farm, such property is also liable to be attached, if the collector judge it necessary, at the same time that his farm is placed under attachment. The landed property of his surety may also be attached, at the same time, if there appear to be occasion for it. When the landed property of either the farmer, or his surety, may be situated in another zillah, the collector making the attachment (and who alone is held answerable for it) if the property be too inconsiderable to admit of its being charged with the expense of an aumeen, is to apply to the collector of the zillah in which the lands may be situated, to order the nearest tehseeldar, or other native officer employed by him in the collections, to take charge of the lands; and the officer to whom he may commit the charge of the lands, is to perform the prescribed duties of an attaching aumeen. If the land be so considerable as to require the appointment of a separate aumeen, the collector making the attachment is to depute such, and to address a letter to the collector of the zillah in which the land is situated, stating the amount due from the defaulter, and the property to be attached. The collector last mentioned is immediately to order a peon to point out the property to the aumeen; who, besides an observance of the general rules for officers of this description, "is to apply the amount of the collections from the lands,"

after

Reg. 14, 1793,
Sec. 6
By whom small
estates, too in-
considerable for
a distinct au-
meen, are to be
attached.

Reg. 14, 1793,
Sec. 24, modi-
fied by Reg. 7,
1799, Sec. 23,
Cl. 6
In what cases
any landed pro-
perty of far-
mers, or their
sureties, may
be attached, be-
sides the farm
in arrear, and
how such at-
tachments are
to be made
when the land
is situated in an-
other zillah.

Special rule for
appropriation
of the collections
of the aumeen
to be observed
in such cases

after deducting the expences of his establishment, towards the discharge of the public revenue, which he is to pay to the collector of the zillah in which the lands may be situated. If any surplus shall remain after making good the public dues, it is to be appropriated towards the discharge of the demand on account of which the attachment of the lands may have been made." This rule is, of course, equally applicable to a tehseeldar, or other officer, employed to attach the landed property of a farmer, or his surety, for the recovery of arrears of revenue due in another zillah; as it would also be if the estate attached were in the same zillah with the farm for which the arrear is due, but distinctly assessed for the public revenue. In all such cases however, viz. whenever an estate is attached, not to make good an arrear of its own assessment, but for the satisfaction of other claims upon the proprietor, it may be a question whether there be any prior claim of mortgage, or other assignment, which, after payment of the fixed assessment upon the estate attached, ought to have precedence before the claim proposed to be liquidated by the attachment. It is declared (in the fifth clause of Section 29, Regulation 7, 1799,) to be "the prior and indefeasible right of Government to hold the whole of the lands answerable in the first instance for the public revenue assessed thereupon, as immemorially known and acknowledged; and frequently declared in the Regulations and otherwise." But this principle is applicable only to the responsibility of all lands included under the same assessment; or, in other words, constituting the same estate; by which term, in a strict sense, as defined in Section 2, Regulation 48, 1793, is understood "any land being malguzary, or subject to the payment of public revenue, for the discharge of which a separate engagement has been or may be entered into with government; though, with a view to include all lands paying revenue to Government, it is more largely explained in Section 13, Regulation 8, 1800, as comprehending "any land subject to the payment of revenue, for which a separate engagement may have been executed to Government by the proprietor or by a farmer; or which may have been separately assessed with

Put private claims may call for attention in the application of it.

Reg 7, 1799.
Sec 29, Cl. 5.
All lands answerable for public assessment on them.

But this principle applicable only to lands held under the same assessment.

Reg. 1, 1801,
Sec. 4.
Special rule for
distress and sale
of personal prop-
erty of default-
ing land hol-
ders, or far-
mers, when the
rule for attach-
ments cannot be
easily put in ex-
ecution.

the public revenue, although no engagement shall have been ex-
cuted to Government, as in cases where the estate may be held
khaus, by a sczawul or other officer on the part of Government,
or be managed by a serberakar for the benefit of a disqualified
proprietor.”* 15. “Instances having occurred, in which, from
the very small extent of certain estates, from their dispersed situa-
tion and inconsiderable produce, it was found impossible to attach
them without an expense altogether disproportionate to the arrear
and value of the estates; the proprietors of which in consequence
withheld the amount due from them, though well able to dis-
charge it; to provide for such cases, the Board of Revenue are
vested with authority to order the distress and sale of the personal
property of defaulters, as far as may be necessary for the recovery
of arrears of revenue, or other public demands, whenever, from the
reports of the collectors, or other information before them, they
may consider it just and expedient to have recourse to this mode

* The following extract of a letter from the Governor General in Council to the
Board of Revenue, under date the 13th July 1798, is applicable to the subject no-
ticed. “The right of Government to dispose of lands assessed with the public
revenue must necessarily supersede every other claim, as their demand attaches to
the land itself, and the estate cannot, by any act of the proprietor, be exonerated
from it. The same principle however does not apply in the case of rent-
free lands; and if, after disposing of a malguzarry estate, an arrear should
still remain due to Government, their claims on the other property of the defaulter,
whether rent-free lands or otherwise, can only be considered on a footing with
those of his other creditors. If therefore, in the cases under consideration, it shall
appear that the rent-free land of the zemindar of Mynachourah was previously
mortgaged to the petitioner, Ranny Janoky, as represented by her, her claim under
such mortgage must undoubtedly have a preference. We do not think however,
(unless the mortgage be of the nature of a *Bye-bil wuffa*,) that there can be any
objection to proceeding to a sale of the land, should a balance still remain due from
the zemindar; as the property may be sufficient to satisfy both the demands; but
should this not be the case, no injury will be sustained by the mortgagee, as Go-
vernment will be responsible to her for the whole or any part of the proceeds, to
which she may establish a superior claim. Should the mortgage have been made
under a *Bye bil-wuffa*, or conditional deed of sale, and in consequence of the ex-
piration of the term, and the non performance of the engagement, the right of
the zemindar have become forfeited to the mortgagee, it will not be proper to pro-
ceed to the sale; as in this case the Ranny will have acquired a full right of prop-
erty in the lands themselves; and she may not be satisfied with receiving the
pecuniary equivalent for them. It will be proper therefore to advert to this cir-
cumstance, in furnishing the collector of Midnapore with the necessary instructions
regarding the sale.”

of recovery, instead of attaching the lands of the defaulters; and whenever such distress and sale may be ordered by the Board of Revenue, it is to take place in the mode prescribed for the distress and sale of the personal property of under-tenants for arrears of rent; under a strict observance of the rules established for this purpose. But this special rule is to be considered applicable only to the particular cases above referred to, in which the general rule for attachments cannot with facility be put in execution; and is not to be understood to vest the collectors with authority to sell the personal property of any proprietor, or farmer of land paying revenue to government, without the express sanction of the Board of Revenue. In applying for such sanction, the collectors are to make a full report of the circumstances under which they may judge it advisable to have recourse to the special rule here mentioned; and are to state any pleas which may have been offered for the arrear, with their opinion whether the same are well founded or otherwise." 16. Proprietors of land, (as already noticed), are not liable to be confined for arrears of the public revenue, or for arrears of tuccavy, or other advances made by Government, unless the whole of their lands shall have been sold, and the proceeds of the sale have proved insufficient to make good the arrear due from them; or, unless their lands shall have been put up to sale, and no person have offered to purchase them. In such cases, if it appear just and expedient to enforce payment of the arrear demandable not only any personal property, which the defaulter may possess, is liable to be sold in satisfaction of the balance due from him; but he is also subject to personal arrest and imprisonment, (unless specially exempted as a disqualified landholder, or otherwise) in the manner hereafterstated with respect to defaulting farmers, and their sureties. The collector however, whenever he may confine a proprietor of land in such cases, "is immediately to report the circumstances to the Board of Revenue, who are to submit them for the information of the Governor Ge-

neral

Reg. 8, 1798
Sec. 3, and 3
confirmed
Reg. 7, 1798
Sec. 23, Cl. 5.
In what cases
the persons of
defaulting land
holders are lia-
ble to arrest
and imprison-
ment.

Reg. 7, 1799
Section 21.
which
induced
Governor
not to discon-
tinue former
mode of a-
ssessing default-
ing landhold-
ers except in
case of neces-
sity.

neral in Council.”* The motives which induced the Governor General in Council to discontinue the mode of coercion, which had been practised from time immemorial, of confining proprietors of land, on their failure in the discharge of the public revenue engaged for by them; were before adverted to, in stating the provisions of Regulation 3, 1794. In Section 21, Regulation 7, 1799, it is added, “the Vice President in Council still desirous of enhancing the value of landed property, and of promoting as far as possible the ease of the proprietors, by considering their property alone a sufficient security for the public dues, without subjecting them to any personal restraint, except in cases of necessity, has forbore to renew the usage above referred to, whilst there can be a hope of realizing the fixed assessment on their lands, according to the stipulated periods of payment, without it.”†

17. The

* The Board of Revenue are also required by an order of Government, dated the 3d June 1802, to submit to the Governor General in Council an annual report of “persons in jail in the different districts, on account of arrears of revenue; with the sentiments of the Board upon the propriety of releasing them; or continuing them in confinement.”

† At the time when Regulation 7, 1799, (suggested and prepared by the author of this analysis, then a member of the Board of Revenue) was enacted, the land-revenues, notwithstanding frequent sales, had fallen much in arrear, as stated in the preamble, and Section 21, of that regulation. It was admitted that this want of punctuality, which had disappointed the reasonable expectations of Government, under a permanent assessment, were ascribable, in some instances, to the insufficiency of the powers vested in the landholders and farmers to enforce payment of the rents due to them from their tenants; and rules were accordingly passed to afford them the means of realizing their rents with greater promptitude and facility. It was further allowed, that “frequent and successive sales of land, within the current year,” had been found productive of material ill consequences, as well towards the land-proprietors and their under-tenants, as in their effect on the public interest in the fixed assessment of the land revenue; and this defect was therefore provided against by the rules passed at the same time. But, exclusive of these causes of arrear, in which no blame was imputable to the landholders; (on the contrary if any of the public sales of land in preceding years originated in such causes, they must be regretted;) there was reason to believe, that several of the principal zemindars, (as noticed in Section 21, Regulation 7, 1799,) purposely withheld the revenue payable by them; and “taking advantage of the want of information in the public offices of the actual produce of their estates, from the discontinuance of former checks

The same
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sale of
more, and
less.

Reg. 14, 1799,
Sec. 110, 5 and
Reg. 7, 1799,
Sec. 13, Cl. 2.
Direction ven-
ed in collation
to cause arrest
and confine-
ment of default-
ing farmers,
and their (un-
dies

Reg. 7, 1799,
Sec. 13, Cl. 2.
In what case
the collector
may issue pro-
cess of arrest
without a pre-
vious written
demand, for the
arrear.

One tehsil dar-
or other officer,
to whom the

17. The reasons which dictated an exemption of proprietors of land from personal confinement, whilst the recovery of arrears due from them might be expected from a sale of their estates, were not, however, applicable to farmers of land, or their sureties; whom, in some cases, it might be necessary to arrest and imprison, as the only means of enforcing payment of money actually received, and fraudulently withheld by them. The collectors are therefore still vested with a discretionary power, to cause the arrest and confinement of defaulting farmers and their sureties, when it may appear necessary and just, under the restrictions which have been stated respecting the attachment of farms and estates; and the following additional rules are prescribed for the guidance of the collectors and tehseldars in such cases. If the farmer shall have given security, and the collector have no reason to believe that he will abscond, he is not to issue process for the arrest of the defaulter, or his surety, until the defaulter has been served with a written demand for the arrear, as directed in the fourth rule above stated. But if the collector have reason to believe that the defaulter, or his surety, is prepared to abscond, he is authorized to issue the process described in the next rule, both against the defaulter and his surety, without having issued the previous demand directed in the fourth rule. In like manner, if the tehseldar, or other mofussil officer entrusted with the col-

lections and securities, encouraged, instead of preventing the public sale of portions of their lands, for the purpose of repurchasing the same in fictitious names, at an under-rated assessment; or of reducing the assessment upon the residue of their estates by over-rating the proportion sold." The rules enacted to remedy abuses of this nature will be hereafter mentioned: but I cannot deny myself the satisfaction of pointing in this place, that the whole of the provisions referred to, with those in Regulation 1, 1801. (also proposed by me in explanation and amendment of parts of Regulation 7, 1799,) have proved successful, not only in promoting the punctual collection of the dues of Government, but in putting a stop to the injurious sales of land, which took place in 1796-7, and 1797-8, (to an extent of rupees 14,18,756 annual jumma in the former, and rupees 22,74,076, in the latter year,) and in preventing the necessity of a recurrence to the former practise of confining landholders for arrears; which, whether more or less hurtful to them and their families than a proportionate sale of their estates, could not but tend to degrade them; weaken their authority over their tenants; and embarrass them in the management of their estates. See fuller remarks on this subject in fifth report of select committee, 28th July 1812: pages 143 to 163.

Revenue may, be payable.

Reg. 14, 1799, Section 5, modified by Reg. 7, 1799, Sec. 23, Cl. 2
Form of process for arrest, and how to be executed

Collector how to proceed when the defaulter (or surety) is arrested and brought to him.

Process how it is proposed to confine the party in the jail of the dewanny adawlut.

Form of the court how to proceed in such cases.

lections, shall have reason to believe that any defaulting farmer whose revenue may be payable to him, or his surety, is preparing to abscond, so as not to allow time for his making report to the collector, as directed in the fifth rule, he is authorized to arrest such defaulter and his surety, without waiting for the collector's process described in the next rule, by a similar process under his own seal and signature; and to cause the party arrested to be immediately conveyed to the collector, to be further proceeded against as directed in the next rule. 18. When the collector may have occasion to issue process for the arrest of a defaulting farmer or his surety, he shall depute two peons, but no greater number than two, for each process, with a writing under his official seal, and attested with his signature, and that of his dewan, specifying the amount of the arrear due, and the date on which it became payable; and requiring the defaulter (or his surety,) to deliver himself into the custody of the peons. After serving the process so issued, and arresting the person of the defaulter (or surety) the peons are to carry him to the collector; who, if the defaulter (or surety) shew any disposition to adjust and satisfy the demand upon him, is at liberty to keep him in the custody of peons during a period not exceeding ten days, from the date of his arrival at the collector's station. At the expiration of this period (or sooner when no disposition may be shewn to adjust and satisfy the demand) if the arrear be not paid, or satisfaction given for the immediate payment thereof, so as to induce the collector to release the defaulter (or surety,) he is to be brought before the judge of the zillah dewany adawlut. The collector, through the pleader of government, is to apply to the court, by motion in writing, for the confinement of the defaulter, or surety. The motion (to be presented in, or out of court, as it may be sitting, or not) is to specify the amount of the arrear due, and the date in which it became payable; with a request that the defaulter (or surety) may be confined in the jail of the dewanny adawlut. On receipt of this motion, the judge is immediately to order the default-

ter (or surety) to be confined in the jail of the dewanny adawlut, and detain him there until he shall have discharged the arrear for which he may have been taken into custody, and all subsequent arrears that may become due during his confinement; or until the collector shall apply by motion, as above directed, to have him released." 19. Peons deputed to take defaulting farmers, or their sureties, into custody, under the preceding rule, "are to receive from the defaulter (or surety) two annas per day each for their subsistence (excepting in districts where custom has fixed the subsistence money of peons at a lower rate, in which case such lower rate and no more shall be exacted) for the time allowed for taking him into custody, and conveying him to jail. The names of the peons who may be deputed, the amount of the subsistence money, and the number of days for which they are to receive it, are to be endorsed on the writing. If the defaulter (or surety) shall not reside or be within the limits of the zillah

Reg. 74, 1799,
Section 5.
Subsistence to
peons employed;
and assistance
to be given them
when the person
is to be arrested
in another
zillah.

* The process against defaulting farmers and their sureties, authorized by this and the preceding rules, is extended by Section 25, Regulation 7, 1799, to defaulting under-renters of whatever denomination, and their sureties, when lands are attached by a collector, or other officer of Government, or become subject to a khas collection on the part of Government; or by any means come under the immediate management of the officers of Government, so that the rents are collected by them from the ryots, joteias, dependent talookdars, under-farmers, or other descriptions of under tenants. In such cases, the collectors, and other public officers, may exercise the same powers as are vested in the landholders and farmers of land, for the recovery of arrears of rent (as detailed in the fourth part of this Analysis), or the collector may proceed against defaulting under-tenants and their sureties (if they have given security) in like manner as he is authorized to proceed against sudder farmers, paying revenue immediately to Government, and their sureties, if he shall consider this mode of procedure more likely to be effectual in causing payment of the arrear due. It is further provided; that the collector, in the instances referred to, may issue the prescribed process of arrest "on the report of the tehseeldar, or other officer employed to make the collections, as in cases of arrears due from proprietors or sudder farmers whose revenue may be made payable to a tehseeldar; or the tehseeldar, or other collecting officer may, in particular cases, where he may have reason to apprehend the elopement of the defaulter or his surety, himself arrest and convey him to the collector," under the provisions contained in the seventeenth rule above stated. In all such cases however, the collector, before he delivers over the parties to the dewanny adawlut, is to satisfy himself that the arrear stated by the tehseeldar or other mohussil officer is justly due, and he is at liberty to keep the alleged defaulter under mohussil peons during the enquiry that may be necessary for this purpose, although the period should exceed the ten days limited by the eighteenth rule; but all such inquiries are to be brought to a conclusion with the least possible delay.

wherein

wherein the lands, on account of which the arrear shall be due, may be situated, the collector is to order the two peons, whom he may charge with the writing, to proceed direct to the collector of the zillah in which the defaulter (or surety) may be or reside, and such collector shall immediately send with them a peon to point out the place of residence of the party.* If the defaulter (or surety) reside in either of the cities of Patna, Dacca, or Moorshedabad, the collector is to order the two peons, whom he may charge with the writing for the apprehension of the defaulter, to proceed to the judge of such city, who is to order a peon to accompany them to point out the place of residence of the party. If the defaulter (or surety) shall be or reside within the limits of the town of Calcutta, the collector is to forward the written demand for the amount claimed from the defaulter to the Board of Revenue, who are to submit it to the Governor General in Council. Upon the receipt of the writing, the Governor General in Council will either order the party to be apprehended and conveyed to the zillah from the collector of which the written demand may have issued, or adopt such other measures as may appear to him proper." 20. Every farmer, or surety, (as well as every proprietor of land, under the provisions stated in the sixteenth rule) "who may be in consequent for arrears of revenue, not adjudged to be due from him by a judicial decree, and who may deem the demand not warranted by his engagements with Government, is permitted to prosecute the collector by whom he may have been imprisoned, in the dewanny adawlut of the zillah wherein the lands on account of which the arrears shall be claimed may be situated, to try the justness of the demand. If no part of the ar-

Reg. 14, 1793.
Section 44.
If case do be
observed when
the defaulter,
or surety, may
be in either of
the cities of
Patna, Dacca,
Moorshedabad,
or Calcutta.

Regulation 14,
1793
Section 10.
Persons confin-
ed for arrears,
not judicially
adjudged, at
liberty to sue
the collector.

* A further provision in Section 5, Regulation 14, 1793, for the confinement of the defaulter in the jail of the zillah in which he may be apprehended, when different from that in which the arrear is payable, appears to be superseded by the subsequent rule for carrying the defaulter, in the first instance, to the collector; as directed in the second clause of Section 23, Regulation 7, 1799. In particular cases however when it would be objectionable to cause the personal attendance of a farmer, or surety, at a distant station, the collector would be justified in applying to the local court, through the valuee of Government, for the confinement of the party, as directed in Sections 5, and 45, Regulation 14, 1793.

rear claimed shall be found to be due from him, the judge is to release him, and decree such costs and damages against the collector as he may deem equitable, upon a consideration of the circumstances of the case.* If only a part of the demand shall appear due, the court is to discharge the prisoner upon his paying such part. In both cases, however, the court, previous to releasing such person, is to take good security from him to perform the final decision in appeal, unless the collector shall represent to the court that an appeal will not be preferred from the decision, or an appeal shall not be lodged within the time limited for preferring appeals to the provincial courts of appeal; in either of which cases the judge shall release the person so confined without taking such security." 21. "That proprietors and farmers of land may be enabled to recover sums exacted from them by the collector on the part of Government, above what they may be bound to pay by their engagements, and that they may be indemnified from all loss by such exactions, it is further declared, that if a collector shall demand a sum of money from a proprietor or farmer of land, on account of arrears, in the manner prescribed in the fourth rule, and the proprietor or farmer shall deny, by a writing to that effect, addressed to the collector, the justness of the whole or a part of the demand, but to prevent any further process being issued against him, shall discharge the whole of the demand, the proprietor or farmer shall be at liberty to sue the collector in the dewanny adawlut of the zillah, for the recovery of the sum which he may consider to have been unjustly taken from him; and the court shall give judgment in favor of the complainant for all such sums as may be proved to have been unduly exacted from him; and the amount of such judgment shall be refunded to him from the public treasury of the zillah, with interest at the rate of twelve per cent per annum, from the date of the exaction, to the date of the decree."* 22. If the neat collections made from attached estates or farms, during the current Bengal, Fussily, or Villayuty year, in which the attachment may take place, prove insufficient

Reg. 3, 1791
Section 12.
Collectors may
also be found
any exaction
beyond the
amount engaged
for by landlords,
ars, or farmers.

Reg. 7, 1791
Sec. 13, Cl. 3.
6 7.
Balance of re-
venue due from
middleholders

* This rule is, of course, equally applicable to sureties, though not expressly mentioned.

farmers, at the close of the year current in each district, how to be recovered.

Reg. 7, 1799, Sec. 23, Cl. 6. Option reserved to Government of cancelling or enforcing the leases of defaulting farmers.

to discharge the arrears of revenue due from a defaulting landholder, or farmer, with the established interest; and the defaulter (or his surety if he have given any) neglect to pay the amount due; and no sufficient reason appear for suspending the enforcement of the demand (under any of the circumstances specified in the eighth rule;) the collector, immediately on the expiration of the current year, is to transmit to the Board of Revenue a report of the balance due; with a statement of the defaulter's lands for sale, or in the case of a defaulting farmer, or surety, a statement of any land or property belonging to them, which can be brought to sale, sufficient to make good the arrear due, and interest thereupon to the time of sale. In the case of defaulting farmers, whose arrears may not be paid at the close of the current year, it is further declared optional with the Governor General in Council "either to cancel the lease of the defaulter from the commencement of the ensuing year, or to compel the defaulter, or his surety, to perform the conditions of the lease, until the term of it shall expire. If the Governor General in Council shall annul the lease, the defaulter after making good the arrear due from him to Government, is at liberty to prosecute the dependent talookdars, under-farmers, or ryots, included in his farm, for any arrears of rent due to him on account of the period during which his lease remained in force."

Reg. 7, 1799, Sec. 28, Cl. 8. Power reserved to Governor General in Council of ordering sales in particular instances, within the year. And similar power vested in Board of Revenue, and Board of Commissioners, by Reg. 18, 1814.

But the rules for public sales of land, being general, will be stated after rules for collecting the land revenue

THE Governor General in Council has further reserved to himself a general power of ordering a sale of land, or other property, for the recovery of arrears of revenue, within the current Bengal, Fussily, or Villayuty year; in any particular case, wherein he may judge it proper to order such sale within the year. A general discretionary power, to order, at any time, a public sale of the land of defaulters, for the recovery of arrears of revenue, is also vested in the Board of Revenue, and Board of Commissioners for the upper provinces, by the provision of Regulation 18, 1814. But the rules for public sales of land being the same in all the provinces, it will be proper, before they are stated, to notice the rules established

lished for collecting the land revenue in Benares and the upper provinces. 1. The tehseeldars, or native collectors, through whom a large portion of the land revenue in these provinces is collected, as a general precaution, in all cases where security may not have been given for the amount of the annual revenue payable to them, are directed "to place *shaenas*, or watchmen, on the crops, at the expense of the parties to whom they may belong; and are not to allow them to be cut down, or carried away, until the zemindar or farmer, in the *mushukhussy* lands, (lands for the payment of the revenue assessed on which a settlement has been concluded,) or the ryots in the lands held *amauny*, shall have given security for the revenue payable therefrom on account of the year. If such security shall be given before the ripening of the first crops, the tehseeldar is not to station watchmen over the crop; nor is any charge to be incurred on account of watchmen, by the persons who may be responsible for the revenue due from the lands. But where such security is not tendered, watchmen are to be stationed, and an allowance, the amount of which is to be regulated by the local custom, is to be made to them, and included in the *deli-khurch*, or village charges, of which the accounts are kept by the putwarries. To prevent all undue exactions under the head of *shaenagee*, or allowance to shaenas, the tehseeldar is to furnish each watchman with a dustuck or writ, prescribing the duty he is to perform. On this dustuck, the serishtadars, (heretofore the canongoes) are to endorse the name of the watchman, the rate of allowance which, according to established custom, he is to receive, and from whom it is to be levied; and the serishtadars, at the end of every month, are to transmit, under their official signature, a list of all such shaena dustucks, as they shall have thus attested during the course thereof, together with the rates of shaenagee thereby allowed. The collector is to revise these allowances, and may order them to be reduced, whenever they shall appear to him exorbitant." 2. "The tehseeldars are not to issue a dustuck, or written demand, for the payment of any kist, or instalment, until it be due. In those places,

(within

in Benares
and upper pro-
vinces

B: Reg 8,
1795, Sec. 2.
Up P Reg 27,
1803 Sec. 2,
Cl 12
In what cases
watchmen to be
stationed by
the fields over
crops of lands
under their su-
perintendence.

Reg. 6, 1795
Sec. 2.
Reg. 27, 1803.
Sec. 3.
Dustuck for or-
ders, when to

Be issued by
tehseldar at
the rate of tul-
lubanah to be
paid in such
cases.

(within the province of Benares) where, by ancient custom, the revenues are payable by two instalments in each month, viz. at the *amavasya* (new moon,) or middle, and the *poornimaushya* (full moon,) or end, of the month, he is not to issue a dustuck for such kists before the expiration of the day of payment; and where the revenues are payable by monthly instalments, he is not to issue a dustuck for the instalment of any month before the elapse of it. But when any person shall have failed to pay in his kist before, or on, the date on which it may become due, the tehseldar is to issue a dustuck,* and to cause it to be served by a single peon, on the party in arrear; who, until he shall have discharged the amount, is to pay to the peon employed in serving the dustuck, the following tullubana, or allowance." In the province of Benares, for the first three days, one anna per day, to be afterwards increased half an anna per day, until the kist be paid, or the dustuck withdrawn. In the upper provinces, two annas per day, (except in districts where custom has fixed the subsistence of peons at a lower rate, in which case such lower rate and no more is to be taken) until the kist be paid, or dustuck withdrawn. 3. If the arrear due be not discharged by the expiration of the fifth day from the date on which a dustuck, issued under the preceding rule, shall have been served upon the defaulter, the tehseldar is to cause a similar dustuck to be served, and in the same manner, upon the surety of the party in arrear (if he have given security) subject to the same rate of daily tullubana, until the amount in demand shall be liquidated by the principal or surety; or until the dustuck be withdrawn. 4. If the arrear be paid on the service of either of the dustucks specified in the two foregoing rules, with the tullubana due thereupon, the dustuck, and the peon employed to serve the same, are to be immediately withdrawn. If the arrear and tullubana be not paid on the issue of the second dustuck, the defaulter and his surety are to be conveyed to the tehseldar's cutcherry. The teh-

Reg. 6, 1795,
sec. 10.

Reg. 27, 1803,
sec. 10.

Second dustuck
to be issued on
sundries, if the
arrear be not
paid.

Reg. 6, 1795,
sec. 11.

Reg. 27, 1803,
sec. 11.

Tehseldar is to
proceed if
the arrear be
not paid on
issue of the se-
cond dustuck.

* Section 2, Regulation 18, 1814, which has been cited in the note to page 360, contains a virtual modification of this rule, though it is directly applicable to the collectors.

tehsildars are not to confine in jail, or put into stocks or irons, any persons, whether principals or sureties, who may be in arrears on account of the revenue; but in case of any such defaulter not paying up the demand on him by the tenth day after a dustuck shall have been served on a principal, or by the fifth day after the issue of a dustuck on his surety, such party or parties are invariably to be sent, with a written report of the circumstances, to the collector; who in such instances is to proceed in the same manner as hereafter stated (in the tenth rule) concerning huzoory malgoozars, or their sureties. 5. "Tehseeldars are strictly prohibited from employing muzkoory peons to serve their dustucks. This duty to be performed solely by peons entertained on monthly wages, who have given security for their good conduct; and whose wages shall be paid out of the tullubannah, or subsistence money, that may be levied from the persons on whom they may serve the dustucks. Every tehseldar is to report to the collector the number and names of the peons thus entertained by him; as well as such occasional dismissions, vacancies, and appointments, as may occur in this part of his establishment; and the collector is to furnish the tehseldars with a correspondent number of chupprasse, or badges, which such peons are to wear; and without which they are not to perform any official act. On each of these badges shall be inscribed, in the Persian language, and in the Hindoostanee language and Naguree character "*chuprassy of the tehseldar of —*, (name of the mehal, or district, under charge of the tehseldar in whose service the peon may be employed.)" 6. Every dustuck issued by a tehseldar, for enforcing payment of a kist, is to be attested by the canoongoes (or serishtadars in Benares) officiating in the tehseldarry cutcherry; who, on the eighth of each succeeding month, are to transmit to the collector a list of all such dustucks as may have been thus issued. The peons, on their return with their dustucks, are to deliver to the canoongoes (or serishtadars) an account of the tullubannah collected by them; which is to be appropriated as follows. In Benares, one moiety is to be retained by the peons for their own subsistence; and the

Reg. 6, 1795.
Sec. 4.

Reg. 27, 1802,
Sec. 4.

By what persons
dustucks of
tehsildars are
to be served;
and how such
peons are to be
paid, appointed,
and removed.
Official
badge to be
worn by them.

Reg. 6, 1795.
Sec. 5.

Reg. 27, 1802.
Sec. 5.

Dustucks of tehsildars by whom to be attested; and list of them sent to the collectors.

Amount collected as tullubannah, how to be appropriated and accounted for.

other half is to be paid to the serishtadars, officiating at the tehseeldar's cutcherry; who, with the sanction of the collector, are allowed to apply the same towards the discharge of their monthly wages, payable from that treasury. In the upper provinces, the whole amount of the tullubanaḥ is ordered to be paid into the treasury of the tehseeldar; and after payment of the wages of the peons employed, the surplus collections are to be carried to the credit of Government. The tehseeldary serishtadars in Benares, and the treasurer attached to the tehseeldar's cutcherry in the upper provinces, are to furnish the peons with receipts for all sums received by them on account of tullubanaḥ; which receipts are to be immediately delivered by the peons into the office of the tehseeldar; and forwarded by him to the collector, with an attested list, on the twentieth of each succeeding month. The collector having caused the list to be examined, and checked by the list of dustucks, which he will have previously received from the serishtadars (or canoongoes), is to enter in the monthly treasury accounts the neat realized amount of tullubanaḥ; viz. the neat amount after payment of the wages receivable by the peons employed, as above directed. 7. "The kists, or instalments for each month, receivable from the tehseeldars, and the huzzoory malguzars, are to be paid into the collector's treasury between the first and the seventh of each succeeding month; and for all arrears not then paid, the collector, at his discretion, on a consideration of the credit and responsibility of the parties, is either to issue his dustuck by a peon, or to send only a written notice by letter, or a verbal intimation, through the vakeels of the parties (who are always to be in attendance at his cutcherry), to pay in their kists. But to those who shall not have paid the amount due from them by the fourteenth of the month, the collector is to issue dustucks, under his seal and signature, and countersigned by the dewan, on the fifteenth of the month;* and the peons serving such dustucks, (if the amount in demand be not paid,) are to bring the party or parties to whom they are addressed, without delay, to

Reg. 6, 1795.
Sec. 7 and 9.
Reg. 27, 1803.
Sec. 7 and 9.
Process to be
observed by
collector in re-
covering arrears
from huzzoory
malguzars, and
from tehseel-
dar.

* See modification of this rule in note before referred to, page 360.

the collector's cutcherry. When any huzzoory malguzar falls in arrear, the collector may address his dustuck, either to the defaulter himself, or to his malzamin (surety); or, if necessary, to both. 8. The peons employed to serve the collector's dustucks, issued under the preceding rule, are to levy tullubahanah, from the date of the dustuck, at the following rates. In the province of Benares, for the first three days, at the rate of two annas per day, to be augmented at the rate of one anna per day, until the kist be discharged; or until the dustuck be withdrawn. In the upper provinces, the rate of tullubahanah is to be levied at an uniform rate of two annas per day. Such dustucks, and all other summonses of the collector, are to be served by the badge peons on his establishment of public officers, hired at monthly wages; who, in Benares, are allowed to retain one anna per day for their subsistence, out of the tullubahanah which they may levy. In cases however of unavoidable necessity, the collector is permitted to employ muzkoory peons, who are to be allowed two annas per day, for their subsistence. And on particular occasions, when from the distance of situation, or the necessity for dispatch, or other cause, the collector shall deem it proper, instead of a peon, to employ a horseman (*sewar*), in the serving of any written demand for revenue, the tullubahanah to be collected by the horseman, in the province of Benares, is to begin at the rate of four annas per day, and be augmented at the rate of two annas per day, until the demand specified in the dustuck be liquidated. The horseman is allowed to retain, out of this tullubahanah, four annas per day for his own maintenance, and the subsistence of his horse. In the upper provinces the rate of tullubahanah to be levied by a horseman is fixed uniformly at four annas per day. But no sewars are to be employed by the collector in the serving of dustucks, excepting those who form part of his public establishment, and are entertained on monthly wages. All peons, whether employed on monthly wages, or those termed muzkoory, and also sewars, are to give security not to exact or receive, under any pretence, any unauthorized sum or

sums,

Reg. 6, 1796.
Sec 7.
Reg 27, 1809.
Sec 7.

What tullubahanah to be levied by peons employed to serve the collector's process. Or by horsemen when required.

sums, or to accept of any subsistence for themselves, or their horses, from any person or persons, to whom they may be thus sent to demand payment of revenue, under the penalty of being made to refund double the amount; either by the collector, on such exaction or receipt coming to his knowledge, or in case of their being afterwards prosecuted on this account, in the civil court. 9. The tullubana collected, as above prescribed, is to be accounted for at the end of every month, by the collector's nazir, and the jemadar of the sewars, to the treasurer. The nazir and jemadar are then to pay the amount into the treasury, according to an attested statement, under the collector's official seal and signature; which is to remain as a voucher in the treasury; deducting only, from the gross receipts, the subsistence money allowed to the peons, or horsemen, as authorized in the preceding rule. 10. On the arrival, at the collector's station, of a defaulting landholder, or farmer, (or the surety of either,) whether luzoori, and summoned under the seventh rule, or sent in by a tehseeldar, under the fourth rule, the collector is to make inquiry into the circumstances of the case; and if the amount demandable be not paid, may keep the party, or parties, under arrest (in charge of the peons with whom they arrived, or otherwise) during ten days from the date of their arrival. He may also discharge the defaulter and his surety, at any time within this period, on their satisfying the collector that they will make good the payment required from them before the expiration of the current Hindoo month. But if such satisfaction be not given, and the collector, under the discretion vested in him by the next rule, shall not judge it proper to suspend the imprisonment of the defaulter, or his surety, he is, at the expiration of the ten days above specified, to cause the party or parties, to be conveyed to the jail of the nearest court of dewanny adawlut; and is to apply to the court, by motion in writing, to be made in open court (if the court shall be sitting) through the pleader of Government, for the confinement of the defaulter. If the court shall not be sitting, the motion is to be presented to the judge out of court. The motion is to specify the amount of the

Reg. 6, 1795.
Sec. 8.
Reg. 27, 1803.
Sec. 2.
And such tullubana how to be accounted for.

Reg. 6, 1795.
Sec. 11.
Reg. 27, 1803.
Sec. 11.
Coll & r. now to proceed when defaulters or their sureties are brought to the station, under process from tehseeldar.

arrears due for the current year, and the date on which it became payable. Upon receipt of the motion, the judge is immediately to order the defaulter to be confined in the jail of the Dewanny Adawlut; and detain him until he shall have discharged the arrears for which he may have been taken into custody; and all subsequent arrears that may become due during his confinement; or until the collector shall apply to the court, by motion made as above directed, to have him released. 11. "If the crops in any estate, or farm, shall have been damaged, or destroyed, by drought, inundation, or other calamity of season, or from any cause not originating in the neglect, mismanagement, or misconduct of the proprietor or farmer, and such proprietor or farmer shall fall in arrears, so as to subject himself to be confined under the preceding rule, and the collector shall be satisfied, from the best information which he may be able to obtain, that the defaulter is unable to make good the arrears by the end of the current month as required, either from the collections from his estate or farm, or from his private funds or property, or by a loan, he is directed to suspend the exercise of the powers vested in him for the confinement of the defaulter." This rule is equally applicable to the sureties of defaulting landholders, or farmers. But the collector is immediately to report the circumstances of the case to the Board of Commissioners, with his reasons for not proceeding against the defaulter, or his surety; and to be guided by the instructions which he may receive from the Board. 12. "The collectors are further empowered to suspend the demand of interest upon arrears of revenue, in any particular instances wherein it may appear just and proper to exempt the defaulter from payment of interest, at the established rate of twelve per cent per annum. But in this case also he is to report the circumstance to the Board of Commissioners, without whose sanction no part of the interest due can be finally remitted. When the collector may not judge it proper to suspend the demand of interest upon arrears, or when the recovery of it may be ordered by the Board of Commissioners, - it is to be enforced by the same process, as that

Reg. 6, 1795.
Sec. 15.
Reg. 27, 1803.
Sec. 19.
In what cases
the collector is
to suspend exer-
cise of the pow-
ers vested in
him by preced-
ing rule.

Reg. 5, 1800.
Sec. 24.
Reg. 27, 1803.
Sec. 19.
Reg. 3, 1812.
Sec. 22.
Collectors may
also suspend de-
mand of interest
upon arrears;
but cannot re-
mit it without
sanction of the
Board of Com-
missioners.

Reg. 6, 1795.
Sec. 14, 18.
Reg. 1, 1801,
Sec. 1.

Reg. 27, 1803.
Sec. 14, Cl. 1.
Sec. 15, Cl. 1.
And Sec. 52.
In what cases
the collector
may cause at-
tachment of the
estate, or farms,
of defaulters.

And proofs of
attachment in
such cases.

With rule to be
observed in col-
lecting the rents.

Reg. 5, 1800,
Sec. 24.
Reg. 27, 1803,

prescribed for compelling the discharge of arrears of revenue.

13. " Besides the personal arrest and confinement of defaulting landholders and farmers, and their sureties, provided for by the foregoing rules, if the collector, at any time subsequent to the third month of the current Fussily year, (before the expiration of which no estate or farm is to be attached for arrears without the previous sanction of the Board of Commissioners,) deem it expedient to attach the estate, or farm, of the defaulter; with a view to induce payment of the arrear; or to obtain accurate information of the assets of the estate, for the purpose of disposing of a portion of it by public sale at the close of the year; or to prevent misappropriation of the remaining rents of the year; the collector is authorized to attach the estate, or farm, of the defaulter; and to direct the tehseeldar of the district, in which the lands of the defaulter may be situated, to levy the public revenue by realizing, in concert with the canoongoes, (or serishtadars in Benares) the defaulter's full share of the assessment on the crops to the end of the year, or until such time as he or his surety (in case he shall have given security) shall have paid up the balance, together with the charges of the peons who may have taken him into custody.

" In such cases the sequestration of the profits, of the party or parties in arrear, is to extend also to the profits of all those of the brethren, or putteedars, whose names may be inserted in the potah of Government, and who shall have executed the corresponding cabooleent; without however infringing the rights of the inferior putteedars or sharers; or in talookas, of the dependent village zemindars, or under-renters; or, in any case, or under any description of tenure, of the common ryots; from whom the collections are to be made by the tehseeldar, according to their engagements with the defaulters; or, where no such engagements exist, according to the established rules and usages of the village or talooka; and in addition to the accounts to be kept by the canoongoes, (or serishtadars) the defaulter may appoint a person to keep a counterpart of the receipts and disbursements."

14. The injunction in the last rule, to collect from the ryots according to their engagements

ments with the defaulter, is not applicable to engagements which, on a summary inquiry in the zillah court, may be set aside, as collusive and contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents payable by the tenants. But, the provisions of Section 4, Regulation 5, 1812, cited in the eleventh rule, for recovering arrears of revenue in the lower provinces, as well as those stated in the same rule, to prevent anticipations of rent in cases of attachment, are equally in force for Benares and the upper provinces.

15. The ninth, tenth and twelfth rules for the lower provinces, relative to the establishments of native officers required in cases of attachment, (to be approved by the Board of Commissioners in the upper provinces,) the appropriation of the amount collected during the period of attachment, the withdrawing of the attachment on discharge of the amount due, with interest and expenses, at any time before the end of the year, and the accounts to be furnished by the village putwarries, as well as by the defaulters and their agents, under the penalties therein stated, together with such part of the fourteenth rule as relates to the attachment of the lands of sureties, are also extended to Benares and the upper provinces, by the regulations noticed in the margin.

16. The fifteenth rule in Bengal, Behar, and Orissa, authorizing in certain cases the distress and sale of the personal property of defaulting landholders, and farmers, was extended, in the first instance, to Benares, by Section 4, Regulation 1, 1801; and the following rule has been substituted for the upper provinces, by the second clause of Section 14, Regulation 27, 1803. "Whenever a proprietor, or farmer of land, shall subject himself to confinement, and his estate or farm to attachment, for arrears of revenue, under the provisions contained in this regulation, and the collector shall be of opinion that, instead of confining the person of the defaulter, and attaching his estate or farm, the arrear due from him will be more speedily discharged by distraining and selling any personal property belonging to the defaulter, according to the process prescribed in Regulation 28, 1803, whereby landholders and farmers

Sec. 15, Cl. 4;
Reg. 5, 1812;
Sec. 4, to 7, 1812.
Qualification of
preceding rule
with respect to
engagements
set aside as col-
lusive.

Provisions stat-
ed in eleventh
rule for recovery
of arrears in
Bengal, Behar,
and Orissa, also
in force for Be-
nares and upper
provinces.

Reg. 6, 1793.
Sec. 30.

Reg. 5, 1800.

Sec. 23, 25, 27.

Reg. 1, 1801.

Sec. 3.

Reg. 26, 1803.

Sec. 28, 30.

Reg. 27, 1803.

Sec. 15, Cl. 4.

Ninth, tenth and
twelfth rules

stated for lower
provinces also

extended to Be-
nares and upper
provinces.

Reg. 1, 1801;

Sec. 4.

Reg. 27, 1803.

Sec. 14, Cl. 2.

In what cases

arrears may be

recovered by

distress and sale

of the personal

property of de-

faulting pro-

prietors and

farmers.

mers are authorized to recover arrears of rent from their under-tenants by distraining and selling the personal property of the latter; or if in any case, notwithstanding the confinement of a defaulting proprietor, or farmer, and the attachment of his estate or farm for an arrear of revenue, such arrear be not discharged; and the defaulter or his surety shall possess any personal property from which the same can be made good; the collector may, in all such cases, direct the tehseeldar of the district in which the personal property of the defaulter and his surety may be forthcoming, or if it be a huzzoory mahal, any officer whom he may think proper to appoint for the purpose, to cause the personal property of the defaulter, or his surety, to be distrained and sold; as far as shall be necessary for the recovery of the arrear due; in the mode, and under the restrictions, prescribed by the regulations, with regard to the distress and sale of the personal property of under-tenants, for the recovery of arrears of rent due from them to proprietors and farmers. The collector also, in all cases wherein he may judge it expedient, is empowered to vest the tehseeldars with discretionary authority to proceed against defaulters, within their respective tehseeldarries, by the established process of distress and sale, without waiting for his previous sanction; but in such cases the tehseeldars will be held personally answerable, if the amount for which the distress may be levied, is found not to have been justly due; and in all cases wherein property may be distrained and brought to sale by the tehseeldars, they will be held responsible for any wilful deviation from the regulations; as prescribed with regard to the agents of landholders and farmers, in Regulation 28, 1803." 17. Complaints of a breach of any of the preceding rules, either by direct infraction of them, or by unnecessary severity in the execution of them, are declared cognizable in the zillah courts; to which any of the parties may apply at all times, either in person or by vakeel. "In such cases, the judge is to cause the collector, or tehseeldar, (according as the act complained of, may have been done by

Reg. 6, 1785-
Sec. 16.
Reg. 17, 182-
Sec. 16. Cl. 1.
Collectors and
tehseeldars liable
to a civil action
for any breach of the
preceding rules;
and a what case
persons concerned
may be discharged by
the court, under
securty.

the former, or the latter,) to be immediately served with a copy of the complaint, fixing a date, according to the distance of place, for the party complained against to deliver in his answer. On the receipt of such copy and notice, the collector or tehseeldar respectively, within the period limited in the notice, shall give in his answer to the court, stating therein the amount in demand from the party or parties on whom the dustuck shall have been issued; and if the said party or parties shall not thereon dispute the justice of the demand, the judge shall stop all further proceedings in the cause. On the contrary, if the plaintiff, or plaintiffs, in their replication, or that of their vakeel, delivered into court, shall not allow of the justice of the demand, and shall thereon tender to the court sufficient *malzamin* security, as well for the sum actually in demand, as for such further amount as may become due from the growing kists, during the trial, and condition to abide by such decree as the court may pass, including all costs and charges in case the plaintiff or plaintiffs be cast, the judge shall issue a written precept, addressed to the tehseeldar or collector, (according as the former or the latter may be the defendant) to withdraw the dustuck and peon from the plaintiff or plaintiffs in the cause. In conformity to the precept, the defendant shall withdraw his process on the party or parties complaining, and give in his answer; when if no part of the claim shall be found to be due from the complainant, the judge shall discharge him, and decree such costs and damages against the tehseeldar, or the collector, as he may deem equitable, upon a consideration of the circumstances of the case; and the damages so decreed shall be defrayed either by Government, or the party prosecuted, according to the rules for such cases. If only a part of the demand shall appear due, the court is to discharge the prisoner upon his paying such part. In both cases, however, the court, previous to releasing the prisoner, shall take good security from him to perform the final decision in appeal, in the event of the cause being appealed by the tehseeldar or collector, in consequence of orders from the Board of Revenue, (or Board of Commission-

er,) or without their orders. If the tehseeldar, or collector, shall state to the court that an appeal will not be preferred from the decision, or if an appeal shall not be lodged within the time limited for preferring appeals to the provincial court of appeal, the judge shall release the person so confined without taking such security." 18. It is explained that the authority to the judge, in the preceding rule, on security being given by the plaintiff, to issue a precept for his discharge from confinement and personal restraint, "shall not be considered as directing the attachment of the plaintiff's estate, or farm, to be withdrawn, unless the arrear of revenue claimed from him by the collector or tehseeldar be paid; nor shall the distress and sale of any personal property, belonging to the plaintiff, be stopped on account of his having instituted a suit against the collector, or tehseeldar, contesting the justice of the demand upon him. Provided however, that if any proprietor or farmer of land, from whom an arrear of revenue may be demanded, shall, by a written representation to the collector, deny the justness of such demand, but to prevent any coercive process being issued against him, shall discharge the demand, and shall afterwards establish, by a suit in the court of adawlut, that the amount so paid by him, or any part thereof, was not justly due, the amount of the excess so established shall be immediately repaid from the public treasury, with interest at the rate of twelve per cent per annum, from the date on which such excess may have been received, to the date of repayment." 19. If an arrear remain due from a zemindar, talookdar, or other proprietor of land, at the expiration of the Fussily year, the following rules are to be observed. *First.* "The collector is to communicate the amount to the Board of Commissioners, accompanied by a detailed account of the causes of the failure; when, as far as regards the lands of proprietors, if the deficiency shall clearly appear to have proceeded from his or their embezzlement, or misappropriation of the funds arising from the produce, and that there be no immediate prospect of the party or parties, or his or their sureties, making good the amount, the Board of Commissioners, (provided from the communications of the collector

Reg. 5, 1800,
Sec. 23.

Reg. 27, 1800,
Sec. 16, Cl. 2.
But the court
not authorized
to withdraw at-
tachme^{ts} of
estates, or
farms or to stop
the sale of per-
sonal property,
without pay-
ment of the ar-
rear claimed.

Provision for
recovery of any
overplus paid
with interest.

Reg. 6, 1795,
S.C. 17.

Reg. 27, 1800,
S.C. 17.

Measures to be
adopted if an
arrear remain
due from a
landholder at
the end of the
Fussily year.

In the case of
surveys arising
from the pro-
prietor's mis-
conduct.

lector it shall appear to them expedient so to do, and the Governor General in Council shall approve of the measure,) may authorize the collector to transfer the rights of the defaulting landholder, to such one or more of his putteedars, or sharers, as shall be able and willing, in consideration of such transfer, to pay up the balance due to Government. In such case, the defaulter is not to be entirely excluded, but is to retain, as an inferior putteedar, such a portion of neej-jote ground, as, with the approbation of the collector, the putteedars who may succeed him shall be willing to allow him to hold, at the established rate of rent payable by the most inferior of the family putteedars of the same village or talooka; provided however, that no putteedar in arrear on account of rent to the defaulter shall be allowed to take advantage of this option; which the collector is successively to tender in preference to the others, in proportion to the greater or less interest they may severally possess in the estate, until one or more of them accept, or they all decline it." *Second.* "Where such transfer of a defaulter's rights, to one or more of his putteedars or sharers, shall not prove effectual in realizing the balance; or in cases where the deficiency cannot be proved to have arisen from embezzlement on the part of the landholder, but where the cause may not be of such a nature as to induce the Governor General in Council to remit the amount; the Board of Commissioners, with the sanction of the Governor General in Council, may direct the collector, either to continue the defaulter in possession, on his engaging in such manner as shall be deemed satisfactory, to pay up his balance, with the future revenue; or sequester to the use of Government the ensuing year's profits of the defaulter. The last mentioned measure is to be adopted, where there is a reasonable prospect of at least realizing thereby the assessment payable to Government in the ensuing years; and in such instances, it is the duty of the collectors, in like manner as in all cases in which lands are held amauny, to acquire the fullest information, and to propose to the Board of Commissioners such improvements, of the *ja'ccad*, or funds, as may appear practicable, by making advances

for

His rights may be transferred to his putteedars or partners, on their paying up the balance.

Or his profits may be sequestered by Government.

Case of a proprietor falling in balance through misfortune.

Duty of the collector in respect to the improvement of amauny lands.

for tuccavy, gilandazy, and the cutting down of jungles; or by the construction of embankments, or water-courses; so as not only to prevent any dimunition of the produce of the lands, but to improve and increase it." *Third.* "The profits arising from the surplus collections, over and above the former jumma adjusted by the settlement, after defraying the charges of improvement, whilst Government think fit to leave the land-amauny, is to be appropriated entirely to the use of the public, in the cases of all defaulting proprietors who may be dispossessed under the preceding clause, for embezzlement or misappropriation of the funds for the payment of the public revenue; and such zemindars are not to be reinstated, until from their own means they shall have paid up, or given satisfactory security for discharging the balance incurred, as well as to repay to Government the principal of the amount it shall have advanced for improving the estate. But in the other case stated, viz. when embezzlement shall not have been clearly proved against the defaulting landholders, the profits or surplus collections are to be set off against the arrears due from them; and they are entitled to reinstatement, as soon as the arrear shall thus, or otherwise from their own funds, have been discharged; or when they shall deliver in satisfactory security for the amount, inclusive of the charges of improvement incurred during their dispossession, or any part thereof for which Government, on a review of the circumstances of the case, shall think fit to render them responsible." *Fourth.* "The rules in the preceding clause are to be understood with this reservation, that in all cases where zemindars, talookdars, or other land owners, shall be disposed of for arrears of revenue, Government shall have the option of letting their lands on lease, (in Benares, for a term or in perpetuity,) to any person or persons, in case of the dispossessed proprietors omitting, or refusing, to resume the management of their lands, under the conditions that may be offered to them." *Fifth.* "In instances of embezzlement, or misappropriation of the funds from which the revenue may be payable, by any landholder, or in any other cases in which it may be deemed advisable, the

Board

If with the profits arising from the land of a dispossessed proprietor are to be applied.

In the instances in which such landholders have been dispossessed for misconduct.

And in those cases such conditions are not ascertained.

Right reserved to Government to let the land of the dispossessed proprietor to whomsoever they shall think proper.

And in the case of the lands at public sale for the recovery of arrears.

Board of Commissioners, (in addition to such recourse as is authorized to be had on the surety,) may recommend to the Governor General in Council the sale of the lands of the defaulter.*

20. The following rules are prescribed in the case of arrears of revenue due from farmers, which may not be discharged by them, or by their sureties, at the expiration of the Fussily year. *First.* The collector, with the sanction of the Board of Commissioners, is to have recourse, in the first instance, to the ancient zemindar in Benares, or, in the upper provinces, to the person who shall appear to have the best claim to the property of the village, or other land, let in farm; "who, on paying up the farmer's balance, or on giving good security to pay it by instalments in the course of the ensuing year, shall be reinstated in the estate. This, however, is not intended to decide the question of right to such estate; as any person who may consider himself to have a better claim to it, than the person whom the collector shall have put in possession, is at liberty to prefer the same to the judge of the zilalah court, within whose jurisdiction the lands shall be situated."

Second. "Where there are not any ancient zemindars, or other original proprietors, or where they shall decline taking upon themselves the balance of the farmer, the collector (in the upper provinces) is to offer the village, or other land to the mocuddums or purdhauns; and to conclude the settlement with them, on their agreeing to the terms specified in the preceding clause. If they shall also decline taking upon themselves the balance of the farmer, (or in Benares, if the original proprietors decline to take upon themselves a similar responsibility,) the farmer may be continued, on his stipulating, in such manner as shall be deemed satisfactory, to pay off his balance, with the future revenue; or otherwise the farm is to be relet, for such term as Government may direct, to such other person or persons as, in consideration of such lease, shall immediately pay up, or find satisfactory security

Reg. 6, 1795,
Sec. 14.
Reg. 17, 1805,
Sec. 18.
What steps to
be taken in the
case of arrears
due at the end
of the year,
from farmers.

Where no ori-
ginal proprie-
tors may ap-
pear or where
they shall decline
the terms offer-
ed, tender to
be made to the
mocuddums or
purdhauns.

In failure of ei-
ther of the
above, the far-
mer may be
continued on a
satisfactory sta-
pulation.

Otherwise the
farm to be let
to some other
person.

* The previous sanction of the Governor General in Council appears to be virtually superseded by the provisions of Regulation 18, 1814, (cited in note to page 360, although the clauses of Section 17, Regulation 6, 1795, and Section 17, Regulation 18, 1803, are not expressly modified by that regulation.

Or to be held
amauny, under
the collector.

Property of firm-
ers may be
disposed of for
the recovery of
arrears.

Reg. 6, 1795,
Sec. 19

Reg. 27, 1803,
Sec. 19.

No sale of land-
ed property to
take place for a
contested de-
mand of reve-
nue; when a
suit may have
been instituted
to try the jus-
tice of the de-
mand, and se-
curity given to
fulfil the judg-
ment.

Sales may be
stopped, at any
period, if such
security being
given by a pro-
prietor in con-
finement.

for, the removed farmer's balance, or the part of it, the payment of which shall be required." *Third.* "Where neither the ancient zemindar, or other original proprietor, shall be reinstated, nor the settlement be made with the mocuddums or purdhauns, nor the farmer in arrear be continued, nor any new farmer undertake to discharge the balance incurred, or such part thereof as Government may require, the lands are to continue amauny, under the same kind of management, and regard to their improvement, as is directed to be observed in respect to lands from which zemindars shall have been dispossessed." *Fourth.* "The Board of Commissioners, in all cases in which they may judge it advisable, (in addition to such recourse as is authorized to be had on the surety,) may recommend to the Governor General in Council,* the sale of the property of farmers in arrear, in conformity to the tenor of their engagements." 21. A restriction in Section 19, Regulation 6, 1795, and Section 19, Regulation 27, 1803, against the sale of landed property in Benares, and the upper provinces, for arrears of revenue, without the sanction of the Governor General in Council, has been discontinued by Regulation 18, 1814. But a further restriction in the same regulations is still in force, suspending the sale in cases wherein a proprietor, or farmer, may have instituted a suit in the dewanny adawlut to try the justice of the demand against him, and have given the security required in the seventeenth rule, to make good the amount adjudged against him. Moreover, "at whatever period a sale of the lands of a proprietor in confinement may be ordered to take place, if the arrear shall not have been adjudged to be due from him by a decree of a court of justice, and provided he shall, previous to the day of sale, deny the justness of the whole, or a part of the arrear, under his engagements, and give the security required in the seventeenth rule, the sale of his lands is not to be made until the cause shall be finally decided. If the sale of the lands shall have been ordered to be made by the Board of Commissioners, the proprietor is either to give the re-

* See preceding note.

quired security to the Board, previous to the day of sale; or to the collector of the district, ten days prior to the day fixed for the sale, so that there may be sufficient time for him to notify the acceptance of the security to the Board of Commissioners. The collector is not to accept of the security, unless he shall be satisfied that it is good and sufficient. If he shall accept of the security, he is to forward notice of the acceptance of it to the Board of Revenue, in duplicate, by two different posts, to provide against the non-arrival of the notice which may be first dispatched. If the sale of the lands shall be ordered to be made by the collector of the district, he is empowered to suspend it, upon such security being delivered to him previous to the sale. But he is immediately to report the circumstances to the Board of Commissioners, for the information of the Governor General in Council." 22. Under the restrictions specified in the last rule, the Governor General in Council has reserved to himself the power of ordering a sale of lands, for the recovery of arrears of revenue, at any time within the year, in which the arrears may become due; if, in any case, it should appear inexpedient to postpone the sale till the close of the year; although, in the ordinary course, the sale, or other transfer, of landed property, for balances of revenue, is to take place at the end of the year.*

Reg. 6, 1799
Sec. 29.
Reg. 27, 1803,
Sec. 29.
Under restrictions
specified.
Governor Ge-
neral in Coun-
cil may order a
sale of lands, at
any time for ar-
rears or reve-
nue; though
such sales are to
be generally
made at the end
of the year.

WHEN

* The Board of Revenue, and Board of Commissioners for the upper provinces, are likewise empowered to order sales of land, for arrears of revenue, within the current year, when they may consider the same just and advisable, under the discretion vested in them by Sections 4 and 5, of Regulation 18, 1814, to the following effect:—§ 4. "On the receipt of the collector's report, of his having advertised lands of a defaulter for public sale, or on receipt of any statement of lands proposed by him for sale, the Board of Revenue or Board of Commissioners will proceed, without previous reference to the Governor General in Council, whether the arrear to be recovered be due on account of the current year, or of any former year or years, to determine whether the sale shall take place; and if so, whether at the office of the collector, and on the day specified in the advertisement already published by him, (if such publication have been made) or of the Secretary of the Board, at a time to be notified; provided however, that if any circumstance shall occur to create doubts as to the propriety of the sale, either on the ground of political expediency, or of its tendency to endanger the peace of the country, the said Boards shall state the circumstances of the case, with their opinion on the subject, to the Governor General in Council for his consideration and orders." §. 5. "Should the Board's sanction not be received in time to proceed to the sale on the day appointed, or should the absence

Rules for sales of land, to recover arrears of revenue, in all the provinces.

Low. Prov.
Reg. 14, 1793,
Sec. 25.

Ben. Reg. 6,
1793,
Sec. 31

Up Prov Reg
27, 1803,
Sec. 31.

Lands ordered for sale, if not already attached, to be immediately placed under attachment.

What rules applicable to the officers employed in such establishments.

Reg. 14, 1793,
Sec. 26

Reg. 6, 1795,
Sec. 32

Reg. 26, 1803,
Sec. 5.

Reg. 14, 1793,
Sec. 26

Modified by
Reg. 7, 1799,
Sec. 3

Reg. 6, 1795,
Sec. 32

Reg. 26, 1803,
Sec. 5

Reg. 18, 1814,
Sec. 4

Public sales of land where to take place.

And what pub-

WHEN sales of land are ordered to take place, for the discharge of arrears of revenue, in any of the provinces, subject to the presidency of Fort William, the following rules are to be observed.

1. If the land be not already attached, under the stated provisions for realizing the public revenue, the collector, in the lower provinces, is immediately to depute an aumeen with instructions to hold the land in attachment; prevent waste by the defaulter; and furnish information for the adjustment of the jumma, in cases wherein it may be requisite, to distribute the assessment upon the portion of an estate to be sold. If the land be too inconsiderable to admit of its being charged with the expense of a separate aumeen, it is to be committed to the charge of the nearest tehseldar, or other officer employed under the collector; and in Benares and the upper provinces, the stated duties of the aumeen are, in general, to be performed by the tehseldar of the pergunnah. The rules before mentioned relative to the establishments of native officers, required for attaching the lands of defaulters, are applicable to the establishments of all officers appointed to hold lands in attachment for a public sale; and the rents are to be collected by such officers under the same restrictions. It is further provided, that all expenses attending a public sale, (and not defrayed from the collections) are to be deducted from the proceeds of the sale. 2. Public sales of land may be made, at the discretion of the Board of Revenue in the lower provinces, or of the Board of Commissioners in Benares and the upper provinces, at the office of the Board of Revenue, or Board of Commissioners, and under the superintendence of their respective secretaries; or at the office, and under the superintendence, of the collector of the zillah in which the lands are situated. But previous to any such sale, a

absence or sickness of the collector, or other unavoidable cause, render necessary a postponement of a sale duly advertised, the collector will publish a notice of the day on which the postponed sale is to take place; and cause such notice to be affixed in some conspicuous place at his own office, and in the court room of the nearest dewanny adawlut, provided there be one within ten miles of the collector's cutcherry, and if not, at the nearest moonsiff's cutcherry; and if such postponement exceed the limit of an adjournment from day to day, in the principal town or village, or other most conspicuous place, in the lands to be sold.

publication is to be made, in the Persian and Bengali languages, if the land be situated in Bengal or Orissa, or in the Persian and Hindoostanee languages, in the other provinces, specifying the jumma at which the lands, or each lot of them, if they are ordered to be sold in two or more lots, will be disposed of; and the place, date, and hour of the day, fixed for the sale; and the proportion of the revenue payable on account of the year, in which the sale of the lands may take place, for which the purchaser is to be responsible; or, if the exact proportion cannot be ascertained, the rules by which the amount of it is to be adjusted. The publication is to be fixed up in some conspicuous place in the court room of the dewanny adawlut of the zillah, the office of the collector, the principal town or village in the lands to be sold, and the office of the secretary to the Board of Revenue, or Board of Commissioners. The publication is to be fixed up at the several places abovementioned for a term not less than one month before the sale takes place.* The other conditions of sale (hereafter specified) are to be fixed up in a conspicuous part of the room in which the sale may be directed to take place; on the day of sale, and during the three days preceding it. 3. Whenever the whole of an estate (or land distinctly assessed for the public revenue) is disposed of, in one lot, no allotment of the assessment is required; and the statement, to be exhibited for the information of purchasers, is confined to the particulars mentioned in the preceding rule; with the name of the estate; and the mehals composing it, as entered in the last-formed public register of estates. But if part of an estate be disposed of, or an entire estate in two or more lots, the assessment upon the land sold, in each separate lot, must be previously adjusted, according to the general rule prescribed for the allotment of the public assessment upon all di-

lication to be issued.

Conditions of sale, when and where to be published.

Reg. 1, 1801, Sec. 9.
Reg. 16, 1803, Sec. 6, Cl. 2.
No allotment of assessment required when the whole of an estate is sold in one lot. Statement to be exhibited in such cases.

Low. P. Reg. 1, 1793, Sec. 30.
B. Reg. 27, 1795, 4 c. 7.
Up. P. Reg. 26, 1803, Sec. 37.
A. in Reg. 1, 1801, Sec. 8.
But previous adjustment of the assessment requisite whenever part of an estate is disposed of, or an entire estate in two or more lots.

* It is also usual to advertise public sales of land in the Calcutta Gazette, except sales in execution of decrees of the civil courts, which being often for sums of small amount, to prevent a proportionate charge of the advertisement, it was resolved by the Board of Revenue on the 9th June 1812, "that the publication of advertisements for the sale of lands under decrees of the courts be discontinued, except in particular cases wherein special orders will be passed."

visions of estates; whether publicly sold, or transferred by the private act of the proprietors; viz: that the assessment upon the portion of the estate to be separated shall bear the same proportion to its actual produce, as the assessment upon the whole estate may bear to its actual produce. By the term "actual produce" is meant the neat annual rent, or other neat produce receivable by the proprietor; after deducting from the gross rent, or other gross produce, the actual expense of collection, and other usual charges of management; inclusive of poolbundy or other expense of embankments, and similar incidental expences, where such may be paid by the proprietor from his gross receipts; but exclusive of his malikanah or proprietary income, and all other personal appropriations of the gross produce of his estate; as such can have no claim to consideration in determining the neat produce for an equal division of landed property; or for the allotment of the public assessment thereto, in conformity to the prescribed rule. 4. The chief difficulty in sales of portions of estates lies in the ascertainment of the actual produce, so as to admit of the application of the above rule. It has been already noticed, in stating the rules for the appointment and duties of village putwarries, that when the whole or part of an estate is ordered to be disposed of by public sale, the putwarries are required to furnish all accounts kept by them, relative to the land-produce, collections, and charges, of the villages to which they are respectively appointed; that they may be sworn to the truth of such accounts; and are liable to prosecution for perjury, if the accounts sworn to shall afterwards appear to have been fabricated, or altered, or not to be the true accounts. Proprietors and farmers, of lands ordered for sale, are also directed, upon receiving a written requisition from the collector, under his official seal and signature, to attend the aumeen, or other officer, directed to take charge of the lands, in person, or cause an agent, duly empowered and informed, to attend him, if the collector shall deem it sufficient to require the attendance of an agent only, with any accounts of the collections and jumma of the lands ordered to be sold, or the estate of which they

Difficulty in ascertaining the actual produce of estates, for application of above rule.

Accounts required to be furnished for that purpose by the village putwarries.

Reg 7, 1799, Sec. 29.

Reg 1, 1871, Sec. 5.

Reg 26, 1803, Sec. 4.

Landholders and farmers also bound, under penalties, to furnish accounts as required from them.

they may form a part, for the purpose of adjusting the jumma at which the lands are to be disposed of. If the proprietor or farmer shall omit or refuse to attend, or to cause an agent of the description above specified to attend, by the time prescribed in the collector's requisition, with the accounts and information required, the Board of Revenue, or Board of Commissioners, are empowered to impose such daily fine upon him, until he shall comply with the collector's requisition, as they may think adequate to his situation and circumstances in life; reporting the amount, for the confirmation of the Governor General in Council. And if the accounts produced by a putwarry, or other agent, of a landholder or farmer, shall appear to have been fabricated, altered, or changed, by order of any landholder, or farmer, or with his knowledge and connivance, on proof of such offence before the civil court, the latter is directed to "impose such fine upon the proprietor, or farmer, so offending, as may appear to it proper upon a consideration of the case and the situation and circumstances of the offender." These provisions having in some instances proved ineffectual, and the accounts required for adjusting an allotment of the assessment, upon portions of estates, being withheld by defaulting landholders for the purpose of delaying the public sale of their lands, whereby not only the punctual realization of the revenue was prevented, but the ends proposed, by postponing the sale of lands for arrears of revenue till the end of the year, were in a great degree defeated; it is declared, that, "whenever it shall be established, by the reports of the collectors and the Board of Revenue, or Board of Commissioners, and the evidence taken by them, to the satisfaction of the Governor General in Council, that any proprietor of land has received the prescribed requisition for the accounts actually kept by him, or by his agents for him, of his estate, or a portion of his estate, which may be proposed for public sale, and that such proprietor has refused, or wilfully neglected, to furnish the accounts required for adjusting an allotment of the assessment of his entire estate upon the proportion proposed to be sold, the Governor General in Council

will

Reg. 1, 1801.
Sec. 5.
Reg. 16, 1803,
Sec. 4.
The whole estate liable to be sold, when the proprietor may withhold the accounts required from him, to all the assessments ent upon a part.

will order the immediate sale of the whole estate, instead of a portion of it, as intended, in satisfaction of the demand to be recovered: provided, that, in such cases, the sale shall be made, after advertisement, in conformity to the general rules for the sales of land; and if the proprietor, at any time antecedent to the fixed day of sale, shall deliver the accounts required of him, or otherwise conform to the requisition made to him, the actual sale of the entire estate shall not take place; but, instead thereof, and as a punishment to the defaulter for withholding the accounts in his possession, it shall be competent to the Governor General in Council to impose such fine on the defaulter as he may judge proper, on consideration of the circumstances of the case, in addition to any fine which may have been previously imposed on the defaulter: provided further, that if, in any case, a proprietor of land, who shall have been required to produce the accounts of his estate for the purpose of adjusting the public assessment upon a portion of it for sale, shall, by pertinaciously withholding such accounts, voluntarily cause the sale of the entire estate, under the provision now made for such case, the surplus produce of the sale, after discharging all demands for which the sale may be ordered, shall be paid to the last proprietor, notwithstanding his default, unless otherwise specially directed.” The accounts furnished by the putwarries, in the lower provinces, having, in many instances, proved fallacious, or unsatisfactory, it is further enacted by Section 8, Regulation 1, 1801, (extended to Benares) “that whenever the collector, or other public officer, to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village accounts produced by a putwarry; or if such accounts shall be found to have been fabricated, or altered, or not to be the true accounts; or, if in any case the true village accounts of the lands, rents, receipts, and disbursements, may not be forthcoming; but the collector or other officer, under the powers vested in him, shall have obtained satisfactory accounts for the three past years, of the lands and rents of the entire zemindarry, talook, or other estate, with a

specification

*Reg. 1, 1801,
Sec 8.
Further rule in
lower provinces
and Benares,
when the true
village accounts
may not be
forthcoming;
and the collector
may possess sa-
tisfactory accounts
of the entire es-
tate for three
years.*

specification of the mehal or mehals proposed to be separately assessed; he shall adjust the assessment upon such mehal or mehals, under the general rule of proportion, according to the average neat produce ascertainable from the general accounts of the estate so obtained, without further regard to the village accounts than may appear to him proper, with a view to compare and check the other accounts. Provided however, that in all cases the collector, or other officer, shall adopt every authorized measure to obtain the most accurate accounts procurable; and shall fully satisfy himself that the accounts, from which he may compute the neat produce of an estate to be divided and distinctly assessed, are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment; without evidence of which no distinct assessment is to be proposed by any collector, or approved by the Board of Revenue. Provided further, that nothing in this regulation shall be understood to authorize the collectors to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue." This restriction, with a substitution of "the Board of Commissioners," is also in force for the upper provinces. 5. The following rules are prescribed for the guidance of the officers employed in the selection of lands for sale on account of arrears of revenue, or other public demands. *First.* The collector, or other officer, proposing a sale of lands, for the recovery of an arrear of revenue, or other public demand, is to be careful "to select for the sale such lands as from the current value of similar lands, considered with all the information he may possess respecting those to be sold, may appear likely to sell for the amount to be recovered by the sale, and no more;" excepting the cases specified in the following clauses. *Second.* "When the total sudder jumma, or annual assessment, of the estate shall not exceed five hundred rupees, of the currency in which the settlement of such estate may have been concluded, instead of selling a portion of such estate, in conformity to the rule mentioned in the foregoing clause, the Board of

No allotment of the assessment valid, without sanction of the Board of Revenue.

Reg 26, 1803.
Section 60.
Or Board of Commissioners.
Rules to be observed in selecting lands to be sold for arrears of revenue, or other public demands.

Low. P. Reg. 1796.

Section 2.
B. Reg. 5,
1803, Sec. 20.
Low. P. Reg. 26,
1803.

Section 2, Cl. 2.
Sales to be proportionate to amount due, with certain exceptions.

Reg. 1, 1801,
Sec. 6.

Reg. 26, 1803,
Sec. 2, Cl. 3.

Exception to preceding rule when the allotment upon the entire estate may not exceed five hundred rupees, or the

Amount to be recovered may be nearly equal to the computed value of the whole estate.

Revenue (and Board of Commissioners) are authorized, if they shall judge the same advisable, to sell, or cause to be sold, the entire estate in one lot. If, in such cases, the amount offered shall exceed the sum due, with interest, and the charges of sale, the overplus shall be paid to the former proprietor, unless, by any special order, it may be otherwise directed. The Board of Revenue and Board of Commissioners are also authorized, whenever the amount to be recovered by a sale of land shall be in such proportion to the computed value of the whole estate, as may be calculated to result only an inconsiderable surplus on the sale of an entire estate, to make, or cause to be made, the sale of the entire estate, although the total annual assessment should exceed the sum of five hundred rupees above limited. In such cases, the value of the lands for sale shall be computed from the best information procurable of their produce and extent, compared with the amount of the assessment upon them, and the current value of similar lands." *Third.* If the land to be disposed of consist of distinct meahals, separately assessed, they are to be sold in distinct lots. And though not separately assessed, if they be of considerable extent, and so situated that they can, without much delay, or difficulty, be divided into distinct lots; and assessed according to the prescribed rules for appraising the assessment; they are to be divided, assessed, and sold in distinct lots, accordingly; unless the proprietor, by a written application, desire to have the whole sold in one lot; or from local circumstances, it may appear more for the advantage of the proprietor that the whole be sold in one lot. This rule however "is not meant to require the division and distinct allotment of a praguannah, turuff, or other established local division. On the contrary, all established local divisions of known limits are, as far as possible, to be preserved entire in every public sale of land; and to regulate, in general, the subdivision of landed property, when an estate may be divided at the public sales, and a portion disposed of as a distinct estate." *Fourth.* "When the lands to be disposed of shall have been divided as above, into separate lots, if the

amount

Reg. 1756, Sec. 4, 5.
Reg. 26, 4, 5.
Sec. 4, 5.
Ment's C. 1, 2.
By which the sale
sold in distinct
lots, and in
what cases portions
of the estate
are to be sold
off, and in the
by which the
for they are
sold.

Reg. 1756, Sec. 4, 5.
Reg. 26, 4, 5.
Sec. 3.

amount bid for the first lot put up, or for any number of lots less than the whole, be sufficient to make good the sum due, with the costs of sale, the remaining lots are not to be disposed of. But if the amount bid for any lot shall exceed the sum due and costs of sale, the entire lot shall notwithstanding be disposed of, and the excess above the sum due and costs, (unless otherwise directed,) be paid to the proprietor of the lands, who, by this means will receive the full value of his property; whereas were the sale to be restricted to a portion of the lot, the purchaser, from the delay and difficulties of a division, would probably be deterred from offering so advantageous a price. For the same reason, in all cases of lands being put up to public sale in one lot, the whole are to be disposed of, whether the amount bid for them be more or less than the sum due; and in the event of an overplus, it is to be paid to the proprietor of the lands, after deducting the costs of sale; unless by any special order it may be otherwise directed." 6. "Under the stated provisions for the sale of entire estates and assessment of portions of estates, it can seldom, if ever, be necessary to sell, for the recovery of an arrear of revenue, a fractional portion of an estate, such as an eight-anna, four-anna, or other proportion, to be held in joint partnership, or common tenancy, without a previous division of the land, or distinct assessment of the revenue thereupon; and as such sales must depreciate the value of the property sold, from the uncertainty of the assessment, and the responsibility attached to the share of a joint undivided estate, no sale of this nature is to take place, for the discharge of an arrear of the public revenue, without the express sanction of the Governor General in Council, on a report of any particular case which may appear to require it." The public sale of a share in a

The whole lot
in all cases to
be sold and
not a portion.

Para 1, 1851,
Sec. 11,
Reg. 20, 1803,
Sec. 13
Reg. 12,
in the case of
fractional por-
tions of estates,
to be sold
without
a previous division.

* This provision is modified by the rules which have been cited, on page 360, from Regulation 18, 1814; and it is added in Section 3, of that Regulation—
"In cases in which a joint undivided estate, (not a bhairwa or pargana), shall be advertised for sale, the rules at present in force, applicable to such cases, shall be duly observed, with exception to that which requires the previous sanction of the Governor General in Council for such sales, enjoined in Section 11, Regulation 2, 1821.

joint undivided estate may, however, in some instances, be necessary, under decrees of the courts of judicature, or otherwise; and whenever such sales may take place, they are to be made under the provisions applicable to joint estates in general, as hereafter specified.” 7. “No means existing, by which any certain or accurate computation can be formed *a priori* of the real value of any estate or portion of an estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of an estate; It is declared, that sales made at public auction, for that purpose, are not liable to be annulled by the courts of judicature, on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietor of the lands to Government. The Board of Revenue, and Board of Commissioners, are to be guided, in cases of that nature, by their own discretion; subject to any instructions with which they may be furnished by the Governor General in Council.” It is further declared, that “sales made of entire estates for the recovery of arrears of public assessment, are not liable to be annulled by the courts of judicature, on the ground that one or more of the sharers may not have obtained possession of his or their interest in the property. The consideration of and decision on the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is declared to reside in the Board of Revenue, and Board of Commissioners respectively, subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.*

8. “Whenever

* The discretion, and consequent responsibility, vested in the Board of Revenue and Board of Commissioners by Sections 24, and 25, of Regulation 5, 1812, with an exclusion of the cases therein provided for from the cognizance of the courts of judicature, may be expected to induce the strictest attention, on the part of the superintending authorities, to maintain a just observance of the rules prescribed for the guidance of the collectors, in the selection of lands for sale to make good arrears of revenue, with a view to prevent, as far as possible, an irremediable injury to the unnecessary sale of the whole of a considerable estate, when it would be sufficient to dispose of a portion. An equitable consideration of real cases of hardship by compulsion of time, or otherwise, when sharers in joint estates, from delay in the execution

Reg. 5, 1812,
Sec. 24,
Sales not liable
to be annulled
on the ground
of the proceeds
having exceeded
the arrears due.

Reg. 5, 1812,
Sec. 25,
Sales of entire
estates not
to be annulled
by the courts,
on the ground
of some of the
sharers not having
obtained
possession, and
the decision on
the expediency
of selling the
entire estate,
or of disposing
of particular
parts, to reside
in the Board of
Revenue and
Commissioners
respectively.

8. "Whenever the portion of an estate, paying revenue to Government, not before distinctly assessed, may be disposed of, a detailed statement is to be exhibited, at the time of sale, for the information of persons desirous of becoming purchasers, specifying the mehals to be disposed of, (to be stated as clearly and accurately as possible,) their rent produce in the past year, and the allotment of the sudder jumma thereto. An authenticated copy of the statement is also to be delivered to the purchaser, with an express notification, that Government do not guarantee to the purchaser any thing beyond the right of the former possessor in the land sold; but if the pur-

Reg. 179,
Sec. 112,
Reg. 1803,
Sec. 61,
Stems to be
exhibited at
time of sale
when the por-
tion of an estate,
not before dis-
tinctly added,
is disposed of.

A duplicate
delivered to
purchaser,
with notification.

Provision for
contests any

execution of decrees or other cause, may not be in possession of their lands, and the revenue of them may be fraudulently withheld by the actual occupants, may also be relied upon, in the due exercise of the discretion which it has been deemed expedient to vest in the Board of Revenue and Board of Commissioners, under the direction of the Governor General in Council. It may be added, in this place, that before the enactment of Regulation 5, 1812, in two cases of summary appeal before the court of Sudder Dewanny Adawlut, in the year 1810, it was determined that the civil courts of judicature were not empowered, by the Regulations then in force, to interdict, or annul, on summary process, viz without the institution of a suit against Government in the prescribed form, and a trial of the merits of the case, a public sale, for arrears of the public assessment, authorized by the Board of Revenue. By Section 16, Regulation 45, 1793, it is provided, with respect to sales of land in execution of judicial process, that the court by which the decree is passed, or to which the enforcement of it is committed, may, at any time before the actual sale, countermand, or postpone it, upon sufficient cause, by a precept to the collector, by whom the lands may have been ordered to be sold, or by an address to the Board of Revenue, if the sale shall have been directed to take place at the presidency. But there is no similar provision respecting sales ordered by the Board of Revenue for arrears of the public assessment, and the consequent inference, that the intervention of the courts of justice was not meant to be extended to such sales, appeared to be supported by the general tenor of the regulations for the collection of the public revenue, which vest in the collectors, under the superintendence and control of the Board of Revenue (or Board of Commissioners in the upper provinces) and in some instances under the sanction of special instructions from the Governor General in Council, full powers to enforce payment of the dues of Government, in the first instance, subject to judicial cognizance of all acts done in opposition to the laws and regulations, with a special provision for a preliminary reference to the Governor General in Council, when the act complained of may have originated in an order of Government, or of the Board of Revenue (or Board of Commissioners), that redress may be granted, without the expense and delay of a judicial process, if any real injury have been sustained, or the rights of Government be defended, with full information from the proper department, if the complaint should, on inquiry, be deemed without any just foundation.

gross error in
the allotment,
established
within one
year from the
date of pur-
chase.

chaser, within one year from the date of his purchase, shall discover and establish, to the satisfaction of the Governor General in Council, through the collector of the zillah and the Board of Revenue, (or Board of Commissioners,) that the accounts upon which the sudder jumma, or public assessment, may have been adjusted, were false or grossly erroneous, so as to render the assessment on the land sold much higher than it ought to have been, under the rules prescribed by the regulations, the Governor General in Council will cause a new allotment of the assessment on the lands sold, and on the remainder of the estate from which such lands may have been separated, according to the prescribed rules. The collectors are further directed to allow all purchasers to have free access to the accounts on which the assessment upon the lands sold to them may have been adjusted; and on receiving any claims, under this clause, within the period therein limited, are to investigate the same, in the presence of the landholder or farmer who may have furnished the accounts, or his authorized agent; and report the result, with their opinion, to the Board of Revenue (or Board of Commissioners) who, after calling for any further information they may judge necessary, are to decide upon the claim of the purchaser, if they shall not consider him entitled to any alteration in the assessment, leaving him to appeal, if dissatisfied, to the Governor General in Council; or, if they shall be of opinion that he is entitled to an alteration in the assessment of the lands purchased by him, are to report the same to the Governor General in Council, for his final determination. The above provision, which is made for the security and encouragement of purchasers at the public sales, as well as to preserve a just assessment of the public revenue on lands sold, is not to be understood to authorize, in any case, (except to rectify an evident and material mistake, which the purchaser may consent to have rectified, rather than relinquish his purchase, and receive back the amount paid by him, with interest) any addition whatever to the assessment, declared at the time

of sale, on the portion of lands sold.”* 9. “A deposit of fifteen per cent, on the amount. If the purchase money, is to be made by the purchaser at the time of sale. If the purchaser shall omit to discharge the purchase money within the period which may be stipulated, he forfeits the deposit to Government, and the lands are to be resold at his risk and expense. If the lands shall be disposed of at a lower price than that offered by the first purchaser, he is to make good the deficiency. If a profit shall arise on the second sale, it is to be carried to the credit of the defaulter; or of Government, if the lands be sold on the public account. If the first purchaser shall refuse or omit to make the deposit, or to pay within the required time the amount of the deficiency, and the expenses arising on the resale, after being served by the collector of the zillah in which he may be or reside, or by the Board of Revenue if he shall be in Calcutta, with a written demand for the amount, similar to that directed to be served on proprietors and farmers of land from whom arrears

Reg. 14, 1793,
Sec. 27, and
Reg. 6, 1795,
Sec. 33, modified by Reg. 12,
1796. Reg. 26,
1803. Sec. 7
Deposit to be
made at time of
sale, and penalty
for non payment of purchase money
within stipulated period.

* In a cause b for the Sudder Dewanny Adawlut on the 18th August 1806, (DOORCAPIE NAD BOSE, appellant, versus the collector of the 24-Pergunnahs, respondent,) the appellant claimed an abatement of the assessment fixed on the lands purchased by him at a public sale, on the ground of an error in the detailed statements exhibited at the time of sale; and his claim having been rejected by the Governor General in Council under the rule cited, he sued the collector, in consequence, for a reduction of his assessment. But the court of Sudder Dewanny Adawlut concurred in opinion with the Calcutta provincial court, that the courts of justice are not competent to adjudge an abatement of the public assessment, fixed upon portions of estates disposed of at the public sale; the power of altering the assessment in such cases being expressly reserved by the regulations to the Governor General in Council. See a more particular report of this case, in the printed reports of civil causes adjudged by the court of Sudder Dewanny Adawlut, No. 19, 1806. It is added however, in the court's remark upon this decision, that “it is not applicable to suits for annulling a public sale, and recovering the purchase money, on the ground of any evident and material error in the description of the lands advertised to be sold, and specified in the bill of sale delivered to the purchaser. In such cases, if redress be not granted on application to the Board of Revenue, and Governor General in Council, the purchaser is at liberty to sue, in the mode prescribed for public suits, to have the sale annulled by judicial process, and the purchase money restored to him.” In another cause (the collector of Dinagepore and KISHENKUNTI RAI, appellants, GORCHUND SURMA, respondent) “it was pronounced by the Sudder Dewanny Adawlut, in concurrence with the Board of Revenue, that the respondent was at liberty to relinquish his purchase, in consequence of an error in the public statement, on the faith of which it was made.” But the respondent declined taking advantage of the option given to him—See Report on Cause 2, 1807.

of revenue are due, such defaulting purchaser is to be considered in the same predicament as the sureties of proprietors or farmers of land, who omit or refuse to discharge any sum of money due from them, and to be proceeded against accordingly, by the collector of the zillah in which he may be or reside.*” 10. “The purchasers of land publicly sold are not to be held responsible for any arrears or suspensions of revenue, which may be due to Government from the lands, prior to the year in which the purchase may be made, unless it shall be otherwise stipulated in the conditions of sale. Arrears or suspensions, not so stipulated to be made good by the purchaser, are to be paid by the former proprietor; and recourse may be had to the remainder of his real or any other property which he may possess, or to the confinement of his person, or to both his person and property, for the recovery of the amount. Arrears of rent that may be due to the

Reg. 11 1793
 Sec. 8
 Reg. 6 1793
 Sec. 31
 P. C. 6 1803
 Sec. 8
 Purchaser is
 answerable for
 arrears or sus-
 pensions, of re-
 venue, unless
 stipulated.

Former pro-
 prietors en-
 titled to
 recover of
 land in re-
 lation

* The following extract from the proceedings of the Board of Revenue, with the form of an account sales, was circulated to the collectors, for their guidance, on the 26th July 1797 —“ The Board remarking that inconvenience has been experienced from the want of a prescribed form for the observance of the collectors in making their reports upon the sales of lands, the following order is passed for general observance in cases of this description. The collectors are to make a report upon the sales which may take place under their superintendence (unless particular circumstances should occur to render an immediate reference to the Board necessary) until the expiration of the period allowed, viz. eight days, for the purchasers to make good the balance of the purchase money. The collectors are then to submit to the Board an account sales, specifying in what instances the amount purchase money has been paid, and in what cases the balance of the purchase money may still remain to be discharged. After the dispatch of this report, or in other terms, after the expiration of the period allowed for the purchasers to make good the conditions of sale, the collectors are not to receive any further tenders or payment, without special orders from the Board. In order to guard, as far as possible, against delay in the recovery of arrears, for which lands have been ordered to be sold, whenever the purchasers may fail to make good the balance of the purchase money within the period above mentioned, the collectors are to issue the necessary advertisements for the re-sale of the lands in the districts under their charge, transmitting to the Board a copy thereof in the English, Persian, and Bengal languages, in order that it may in like manner be published at the Presidency. Such advertisements are of course to be uniformly sent with the reports of the collectors upon the sales. Ordered, that the Secretary furnish the collectors with a copy of an account sales made out at his office, to serve as a form for general observance. Ordered also, that the several collectors be directed to attend to the form now transmitted to them, *mutatis mutandis*, in their reports on sales of land made in satisfaction of decrees of court.”

defaulting

defaulting proprietor from his dependent talookdars, under farmers, or ryots, preceding the date on which the lands may be sold, are at the same time declared to belong to him, and recoverable by suit in the zillah court of adawlut. He is also at liberty to transfer his right to such arrears to the new proprietor."

11. "All purchases of land, at the public sales, are required to be made in the names of the persons actually purchasing the same, without any fictitious substitution of the name of any other person whatever. It is declared that any evasion of this rule will render the lands purchased in opposition to it liable to confiscation to Government, or to such other penalty as the Governor General in Council, on consideration of the circumstances of the case, may think proper to impose; but that it is not intended to prevent any person, duly authorized, from making a purchase of land at the public sales for another; so that the real purchaser be declared at the time of sale, and his name registered accordingly."

12. "All defaulting landholders, farmers, and sureties, whose lands may be sold by public sale for the discharge of arrears of revenue, are positively restricted from becoming the purchasers, directly or indirectly, of their own lands so disposed of. If they have the means of making such purchases, they must have the means of preventing the sale by discharging the arrear due from them; and any lands which may be found to have been purchased by them, in opposition to the above prohibition, are declared liable to immediate forfeiture to Government. The collectors are directed to cause due enquiry to be made, whenever they may suspect such illicit purchase; and if they shall consider the same established, are to report the circumstances of the case, with the proceedings held by them, to the Board of Revenue or Board of Commissioners, to be submitted with their opinion for the determination of the Governor General in Council, whose decision upon the case shall be considered final; unless the party dissatisfied shall think proper to prosecute his claim in the courts of justice; who are, in that case, to proceed as directed in other suits wherein Government may be a party."

13. "All purchasers

Reg. 7, 1799,
Sec. 29, Cl. 3,
Reg. 26, 1803,
Sec. 9.
All purchases
of land at the
public sales to
be made in the
names of the
actual purcha-
sers.
Penalty for any
evasion of this
rule.

Explanation.

Reg. 7, 1799,
Sec. 29, Cl. 4,
Reg. 26, 1803,
Sec. 10.
Defaulters re-
stricted from
purchasing
their own lands,
at the public
sales, under pe-
nalty of for-
feiture.

Reg. 1, 1801,
Sec. 10.

Reg. 26, 1803,
Sec. 18.
Purchasers to at-
tend the col-
lections in per-
son, or by their
representatives,
and execute en-
gagements. In
whenever the
collector may
cause the per-
sonal attendance
of alleged pur-
chasers.

Reg. 7, 1779,
Sec. 29, Cl. 1,
Reg. 26, 1803,
Sec. 11.
In what man-
ner the col-
lectors are to
give possession
to purchasers at
public sales.

Further mea-
sures, if necessa-
ry, to be taken
by the judge of
the zillah.

Late incumbent
how to recover
any property
delivered over

chasers of lands at the public sales are required to attend the collector of the zillah wherein the lands may be situated, either in person, or by their representatives duly authorized, and to execute the usual cuboolcent and kistbundy for the public revenue assessed upon the lands purchased by them. In cases of doubt as to the real purchaser, or of suspicion that the purchase has been made in opposition to the two preceding rules, the collector is authorized to cause the personal attendance of the alleged purchaser at his cutcherry, if resident within his jurisdiction; or, if the purchaser be resident in any other zillah, the collector of such zillah is authorized and required to cause the attendance of the purchaser at his cutcherry, on the application of the collector in whose district the lands may lie, and to make any examination or enquiry which may be desired by the latter collector, or by the Board of Revenue, or Board of Commissioners; to whom a full report is to be made in such cases, for the orders of the Governor General in Council." 14. "The collectors are to give possession to purchasers at the public sales, of lands within their respective zillahs, by publishing at the head cutcherry of the pergunnah, or other mehaul sold, and at the cutcherry of the adawlut, in the jurisdiction of which such mehaul may be situated, a statement of the land sold (as exhibited at the time of sale), the name of the purchaser, the date of his purchase, and his succession to all the rights of the former possessor. In the event of any further measures being necessary to put the purchaser in possession, he (the purchaser) is to apply to the judge of the zillah, within which the land may be situated, and on inspection of the proclamation abovementioned, the judge is to put the purchaser in possession of the property sold to him, as therein specified, by the usual process for giving possession of all other property under decrees of the courts of justice."* If the late incumbent shall dispute the right of the purchaser to any part of the property so delivered over

* In a case before the Sudder Dewanny Adawlut (NEELGOVIND MITTER, &c. vers. ABDOL HUKHEM) on the 18th September 1805, this rule was considered "not meant to authorize the dispossession of parties in actual possession of any part of the lands specified in the collector's proclamation, and claiming the property of them."

to the purchaser, as not being included in the purchase, he (the former incumbent) is at liberty to institute a regular suit in the court of adawlut for the recovery thereof, with costs and damages; and, in like manner, if the purchaser think himself entitled to any property which the judge may not deliver over to him, as not appearing to have been included in the sale, he is at liberty to sue the late incumbent for the same in the court of adawlut; and, on proof of his title, is to recover such property, with all costs and damages. If any other person, not being the late incumbent or his representative, shall claim any part of the property sold and delivered over to the purchaser, he is at liberty to institute a suit against the former incumbent and purchaser jointly for the recovery thereof; and on proof of his right is to receive back the same; with costs and damages from the late incumbent; who is further, in such case, if the property adjudged were clearly included in the sale, to be compelled by the court of adawlut to make reparation to the purchaser adequate to the loss sustained by him; either by a refund of a proportion of the purchase money, or otherwise, as may appear just and equitable. Provided, however, that nothing in this rule is to be considered applicable to the rights of under tenants, of whatever description, in the land sold, whose rents may have been payable to the late incumbent. As the purchaser is entitled only, by the terms of his purchase, to the rights of the late incumbent, (except in the cases provided for by the following rules) whatever disputes may arise between him and the undertenants must be settled between them, or by the usual course of law, in like manner as they would have been between the undertenants and late incumbent, if the sale had not taken place. Provided further, that, whenever the land may have been sold to discharge an arrear of the public assessment upon such land, or upon the estate of which such land formed a part, no private claim thereto, on the plea of sale, gift, or other transfer, or of pledge, mortgage, or other assignment; or any other private claim whatever, is to be admitted by any court of justice in bar of the prior and indefeasible right of Government to hold

to the purchaser, but not included in his purchase.

And purchaser how to recover any property included in the sale but not delivered over to him.

Any other person, not being the late incumbent, or his representative, claiming a right to property disposed of at the public sales, how to recover the same.

Exception of right of undertenants.

Any disputes respecting which to be settled between the undertenants and purchaser, as with the late incumbent, if the sale had not taken place.

Further provision against any private claim upon land sold to discharge the revenue assessed thereupon or upon the estate of which it forms a part.

Prior and indefeasible right of Government to hold the

the

Provisions to guard against fraudulent leases, and reduced rents, in cases of public sales for arrears of revenue.

or

Y L H C R A N
E X E C U T I O N

Σύμφωνα με τον Νόμο

or from the commencement of the ensuing year, in case such public sale shall have taken place at any time after the second month of the current year; and the purchaser or purchasers of the lands, in all such cases, shall be at liberty to collect from such dependent talookdars, or other dependent landholders, and from the ryots or cultivators of the lands let in farm, and the lands not farmed, whatever the former proprietor would have been entitled to demand, according to the established usages and rates of the pergunnah, or district, in which such lands shall be situated, had the engagements so cancelled never existed. Provided however, that all dependent talookdars, or other dependent landholders, and all ryots, or cultivators of land, whose leases and pottahs may become cancelled by a public sale, on account of arrears of assessment, under this section, shall be entitled to receive and to demand from the purchaser, new pottahs, in conformity to the regulations in force, for the protection and welfare of dependent talookdars, ryots, and other cultivators of the soil."

Rule for the renewal of pottahs which may become cancelled.

16. "The following tenures are excepted from the operation of the preceding rule. *First.* In the provinces of Bengal, Behar, and Orissa, the lands of such dependent talookdars as were exempted from any increase of rent, at the time of forming the decennial settlement, by the first clause of Section 51, Regulation 8, 1793; which provided that no zemindar, or other actual proprietor of land, shall demand an increase from the talookdars dependent on him, although he should himself be subject to the payment of an increase of jumma to Government, except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the talookdar holds his tenure; or that the talookdar, by receiving abatements from his jumma, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it." Also, *Istimrardars*, or tenants at a fixed rent, who had uniformly held their tenures at the same rent for twelve years, before the period of the decennial settlement, and were consequently exempted from any increase of rent by Sections 19 and 19, of Regulation 8, 1793.

Tenures exempted from preceding rule. Reg 44, 1713. Sec 5, a d 7, Reg 7, 1799, Sec 89, Cl. 5. In lower provinces.

Low. P. Reg.
44, 1793
Sec. 8.
Ba. Reg. 50,
1795,
Sec. 7.
Up. P. Reg.
4, 1803
Sec. 8.
In all the pro-
vinces.

Reg. 5, 1812,
Explanation
and restriction
of powers to be
exercised by
purchasers, u-
nder the direct
rule above sta-
ted.

Reg. 5, 1812,
Sec. 11.
And the same
rule is applic-
able to the
purchasers on
the part of Go-
vernment, as a
general rule, in
all cases, and
under similar
circumstances.

Reg. 5, 1812,
Sec. 11, an. 6.
When a sale
made in pursu-
ance of the
orders of the
Board of Revenue
or Board of Commissioners,
the purchaser
shall be entitled
to the same
benefits as the
purchaser of
land of a similar
description in
the places adjacent;
but if the leases
and pottahs of
the tenant of an
estate generally,
which may consist
of an entire
village

Sec. 7.
Rules of the
Board of Revenue
and Board of
Commissioners
shall be applicable
to the same
benefits as the
purchaser of
land of a similar
description in
the places adjacent;
but if the leases
and pottahs of
the tenant of an
estate generally,
which may consist
of an entire
village

Secondly. In all the provinces, pottahs or leases, for a term of years, or in perpetuity, to any person, not being a British subject, or other European, for the erection of dwelling houses; or buildings for carrying on manufactures or other purposes; and for offices for such houses or buildings; or for gardens. 17. It has been already observed, under the head of attachments, that neither persons deputed to attach lands on the part of Government, nor purchasers at the public sales, are entitled, under Section 4, Regulation 5, 1812, to annul existing leases, within the year in which the attachment or sale may have taken place, on the ground that such leases were collusive, without a summary decision to that effect in a court of judicature. The following further provisions have been enacted by the regulation above mentioned, in explanation of the powers appertaining to purchasers at public sales of land, made for the recovery of arrears of assessment, (as stated in the fifteenth rule,) and declared by Section 11, of that regulation, to be "equally applicable to sequestrators on the part of Government; to managers on the part of the court of wards; and to farmers, whenever estates or portions of estates may be let to farm, under the authority of the Board of Revenue or Board of Commissioners." *First.* When, under the prescribed rules for sales of land on account of arrears of assessment, any subsisting leases to under-tenants may become cancelled; and the purchaser may consequently be entitled to collect, during the year in which the sale took place, whatever the former proprietor would have been entitled to receive, according to the established rates and usages of the pergunnah, or district, in which the land may be situated, if any known established pergunnah rates exist, the same shall determine the rent to be received by the purchaser. *Second.* "In cases, in which no established rates of the pergunnah, or local division of the country, may be known, pottahs shall be granted, and the collections made, according to the rate payable for land of a similar description in the places adjacent; but if the leases and pottahs of the tenant of an estate generally, which may consist of an entire village

village or other local division, be liable to be cancelled under the prescribed rules, new pottahs shall be granted, and the collections made, at rates not exceeding the highest rate paid for the same land, in any one year within the period of the three last years antecedent to the period at which the leases may be cancelled."

Third. "In the case of a dependent talookdar, if the rent of the lands be computed according to the rates payable by ryots or cultivators, for land of a similar quality and description, a deduction shall be allowed from the gross rent in the adjustment of the jumma of such dependent talook, at the rate of ten per cent for the talookdar's profit or income, over and above a reasonable allowance for charges of collection according to the extent of the talook."

Fourth. "By the former and present regulations, persons purchasing land at the public sales, are competent, under certain restrictions, to annul engagements contracted between the late proprietor of the lands and his under-tenants. But it is hereby declared, that no cultivator or tenant of land shall be liable to pay an enhanced rent, though subject to enhancement under subsisting regulations, unless written engagements for such enhanced rent have been entered into by the parties, or a formal written notice have been served on such cultivator or tenant at the season of cultivation: viz. on or before the month of Jeth, notifying the specific rent, under the landholder's right of enhancing it, to which he will be subject for the ensuing Fussy, or for the current Bengal year."

Fifth. "Unless such notification be duly served, no greater rent shall be exigible by process of distress or confinement of person, nor recoverable by suit in court, than the cultivator or tenant was bound to pay under his previous engagements: and if more be levied from him, he shall be entitled to a refund of the excess with damages, on proof of the circumstances before a court of justice. In all practicable cases the required notification shall be served personally on the tenant: but if he shall abscond or conceal himself, so that it cannot be served personally upon him, it shall be affixed at his usual place of residence; which latter process shall, in such case, be

declared

Sec. 8.
What allowances to be made in computing the rates payable by ryots, &c. in the case of dependent talooks.

Sec. 9.
No cultivator or tenant liable to pay enhanced rent unless under written engagements, &c. notice served upon him the season of cultivation.

Sec. 10.
A cultivator served with such notice entitled to a refund of any excess beyond amount of previous engagements.

How such notices are to be served.

deemed and taken to be a sufficient service of the notification in question.”*

IN

* Of the stated rules for the public sale of lands on account of arrears of revenue, the first eleven rules, as well as the thirteenth and fourteenth, are equally applicable to public sales in satisfaction of private claims adjudged by decrees of the courts of judicature; except that, in qualification of the first rule, which directs an immediate attachment (if not before made) of land ordered to be sold in discharge of an arrear of revenue, Section 5, of Regulation 45, 1793, “for disposing of malguzary and lakheraj lands at public sale, pursuant to decrees of the courts of justice,” in the lower provinces, and the corresponding sections of Regulations 20, 1795, and 26, 1803, for Benares and the upper provinces, in the case of land to be disposed of in satisfaction of a decree, empower the Board of Revenue and Board of Commissioners, when “it may appear to them expedient, to direct the collector to attach the lands ordered to be sold.” The general mode of proceeding, which is prescribed by the Regulations above mentioned, when there may be occasion to have recourse to a sale of land in satisfaction of the decree of a court of judicature, was noticed in the first part of this Analysis, page 74; and it will be sufficient to add, that by Section 17, Regulation 45, 1793, and the corresponding sections of Regulations 20, 1795, and 26, 1803, the rules established for the public sale of lands paying revenue to Government are declared applicable to lands held exempt from revenue, “as far as such rules may apply to the circumstances thereof; with the addition, that the purchaser of such exempted lands shall be considered as having succeeded only to the rights of the former proprietor, and that the transfer shall not bar any claims of Government for the recovery of the public dues from such lands.” The penalty against defaulting landholders, farmers, and sureties, directly or indirectly purchasing their own lands, when publicly sold for the discharge of arrears of revenue due from them (as stated in the twelfth rule for such sales) has not been extended to purchasers at other public sales, and the three concluding rules, concerning the rights of purchasers at public sales for arrears of revenue, are not applicable to purchases of land sold in satisfaction of decrees, except the provisions cited from Sections 9, and 10, of Regulation 5, 1812, in any cases wherein they may be competent to annul engagements contracted between the late proprietor of the lands and his under-tenants. By Section 3, of Regulation 18, 1812, (which rescinded Sections 3 and 4, of Regulations 44, 1793, and 50, 1795,) it is enacted for the provinces of Bengal, Bihar, and Orissa, (exclusive of Chutuck,) that “all leases made in conformity to Sections 2 and 3, Regulation 5, 1812, and Section 2, of this regulation, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift or otherwise.” It is also enacted for the ceded and conquered provinces (including Chutuck) by Section 4, Regulation 14, 1812, that “when a division of a joint estate shall be made, or the whole or a portion of an estate shall be transferred by sale in discharge of decrees of court, or by private sale, gift, or other private transfer, the subsisting leases and engagements if they be not repugnant to the rules prescribed in Sections 2 and 3, Regulation 14, 1812, shall remain in force, as provided by Sections 3 and 4, of Regulation 47, 1803, until the term of them shall expire, excepting in the case of the lands being disposed of at public sale for the discharge of arrears of the public assessment.” To conclude the subject of this note,

which

In addition to the powers specifically vested in the collectors for enforcing regular payment of the land-revenue, they are generally empowered to require the personal attendance of any landholder, or other native inhabitant, within their respective jurisdictions, when the attendance of such person may be indispensibly necessary for the purpose of any authorized public enquiry; or to enable them to perform any part of their public duty, under the regulations; or under instructions of the Governor General in Council, or of the Board of Revenue, or Board of Commissioners. But a collector is not to cause the personal attendance of any landholder or other person, who may appoint an agent duly authorized to attend for him, if the attendance of the agent so appointed shall be adequate to the purposes required: and when he may have occasion to require the attendance of any person, he is to issue a regular summons, under his official seal and signature, specifying the name, designation, and residence of the party summoned, and the purpose or purposes, for which his attendance is required. Any infringement of this rule is declared to render the collector liable to an action for damages in the civil court.

Reg. 1, Sec. 2.
Reg. 27, Sec. 4.
General power vested in collectors, to cause attendance of native inhabitants, for certain purposes. Process to be sued in such cases.

The following rules are prescribed for the punishment of disobedience, or resistance, to the process which the collectors are

Rules for punishment of disobedience, or resistance, to

which should perhaps have formed part of vol. 1, it may be proper to notice Section 19, of Regulation 20, 1795, "for disposing of lands at public sale, pursuant to decrees of the courts of justice, in the province of Benares," to the following effect. "In view to the nature of tenures in the province of Benares, and to the numerous subordinate titles to land that exist within the same talooka, or zemindarry, or village, or villages, the revenue assessed on which is often rendered payable under one pottah by no more than one or more of the principal proprietors, as set forth in Regulations 2 and 6, 1795, it is to be understood, that the purchaser of lands thus situated, in which there shall be more than one person possessing superior or subordinate proprietary claims, is to be considered as having purchased and succeeded to the proprietary rights only of the party or parties on whose account the sale shall be declared to be made, without otherwise affecting the other proprietary titles within the tenure."

It may further be remarked that the collectors were instructed by the Board of Revenue, on the 10th March 1801, whenever they may transmit a statement of lands to be sold for the recovery of sums adjudged against the proprietor by a decree of court, to "make it an invariable rule to state whether there be any arrears of revenue due from them, and the amount."

the process of
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And principles
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Sec. 133. Sec.
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Sec. 136. Sec.
137. Sec. 138.
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Sec. 139. Sec.
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Sec. 763. Sec.
764. Sec. 765.
Law. P. Reg.
Sec. 766. Sec.
767. Sec. 768.
Law. P. Reg.
Sec. 769. Sec.
770. Sec. 771.
Law. P. Reg.
Sec. 772. Sec.
773. Sec. 774.
Law. P. Reg.
Sec. 775. Sec.
776. Sec. 777.
Law. P. Reg.
Sec. 778. Sec.
779. Sec. 780.
Law. P. Reg.
Sec. 781. Sec.
782. Sec. 783.
Law. P. Reg.
Sec. 784. Sec.
785. Sec. 786.
Law. P. Reg.
Sec. 787. Sec.
788. Sec. 789.
Law. P. Reg.
Sec. 790. Sec.
791. Sec. 792.
Law. P. Reg.
Sec. 793. Sec.
794. Sec. 795.
Law. P. Reg.
Sec. 796. Sec.
797. Sec. 798.
Law. P. Reg.
Sec. 799. Sec.
800. Sec. 801.
Law. P. Reg.
Sec. 802. Sec.
803. Sec. 804.
Law. P. Reg.
Sec. 805. Sec.
806. Sec. 807.
Law. P. Reg.
Sec. 808. Sec.
809. Sec. 810.
Law. P. Reg.
Sec. 811. Sec.
812. Sec. 813.
Law. P. Reg.
Sec. 814. Sec.
815. Sec. 816.
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Sec. 817. Sec.
818. Sec. 819.
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Sec. 820. Sec.
821. Sec. 822.
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Sec. 823. Sec.
824. Sec. 825.
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Sec. 826. Sec.
827. Sec. 828.
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Sec. 829. Sec.
830. Sec. 831.
Law. P. Reg.
Sec. 832. Sec.
833. Sec. 834.
Law. P. Reg.
Sec. 835. Sec.
836. Sec. 837.
Law. P. Reg.
Sec. 838. Sec.
839. Sec. 840.
Law. P. Reg.
Sec. 841. Sec.
842. Sec. 843.
Law. P. Reg.
Sec. 844. Sec.
845. Sec. 846.
Law. P. Reg.
Sec. 847. Sec.
848. Sec. 849.
Law. P. Reg.
Sec. 850. Sec.
851. Sec. 852.
Law. P. Reg.
Sec. 853. Sec.
854. Sec. 855.
Law. P. Reg.
Sec. 856. Sec.
857. Sec. 858.
Law. P. Reg.
Sec. 859. Sec.
860. Sec. 861.
Law. P. Reg.
Sec. 862. Sec.
863. Sec. 864.
Law. P. Reg.
Sec. 865. Sec.
866. Sec. 867.
Law. P. Reg.
Sec. 868. Sec.
869. Sec. 870.
Law. P. Reg.
Sec. 871. Sec.
872. Sec. 873.
Law. P. Reg.
Sec. 874. Sec.
875. Sec. 876.
Law. P. Reg.
Sec. 877. Sec.
878. Sec. 879.
Law. P. Reg.
Sec. 880. Sec.
881. Sec. 882.
Law. P. Reg.
Sec. 883. Sec.
884. Sec. 885.
Law. P. Reg.
Sec. 886. Sec.
887. Sec. 888.
Law. P. Reg.
Sec. 889. Sec.
890. Sec. 891.
Law. P. Reg.
Sec. 892. Sec.
893. Sec. 894.
Law. P. Reg.
Sec. 895. Sec.
896. Sec. 897.
Law. P. Reg.
Sec. 898. Sec.
899. Sec. 900.
Law. P. Reg.
Sec. 901. Sec.
902. Sec. 903.
Law. P. Reg.
Sec. 904. Sec.
905. Sec. 906.
Law. P. Reg.
Sec. 907. Sec.
908. Sec. 909.
Law. P. Reg.
Sec. 910. Sec.
911. Sec. 912.
Law. P. Reg.
Sec. 913. Sec.
914. Sec. 915.
Law. P. Reg.
Sec. 916. Sec.
917. Sec. 918.
Law. P. Reg.
Sec. 919. Sec.
920. Sec. 921.
Law. P. Reg.
Sec. 922. Sec.
923. Sec. 924.
Law. P. Reg.
Sec. 925. Sec.
926. Sec. 927.
Law. P. Reg.
Sec. 928. Sec.
929. Sec. 930.
Law. P. Reg.
Sec. 931. Sec.
932. Sec. 933.
Law. P. Reg.
Sec. 934. Sec.
935. Sec. 936.
Law. P. Reg.
Sec. 937. Sec.
938. Sec. 939.
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Sec. 940. Sec.
941. Sec. 942.
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Sec. 943. Sec.
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Sec. 946. Sec.
947. Sec. 948.
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Sec. 949. Sec.
950. Sec. 951.
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Sec. 952. Sec.
953. Sec. 954.
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Sec. 955. Sec.
956. Sec. 957.
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Sec. 958. Sec.
959. Sec. 960.
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Sec. 961. Sec.
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Sec. 973. Sec.
974. Sec. 975.
Law. P. Reg.
Sec. 976. Sec.
977. Sec. 978.
Law. P. Reg.
Sec. 979. Sec.
980. Sec. 981.
Law. P. Reg.
Sec. 982. Sec.
983. Sec. 984.
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Sec. 985. Sec.
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989. Sec. 990.
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Sec. 991. Sec.
992. Sec. 993.
Law. P. Reg.
Sec. 994. Sec.
995. Sec. 996.
Law. P. Reg.
Sec. 997. Sec.
998. Sec. 999.
Law. P. Reg.
Sec. 1000. Sec.

authorized to issue, against the persons of defaulting landholders and farmers, or their sureties; or for the attachment of their estates or farms; and the principles of them are applicable to all cases in which the collectors are vested with authority to issue a written official process, which may be disobeyed, or resisted, in the manner stated. *First.* If a defaulting landholder, or farmer, or the surety of either, shall refuse to obey, or shall resist, or cause to be resisted, the process issued by a collector, in conformity with the regulations, for his personal arrest, or for the attachment of his estate, or farm; or shall abscond, or shut himself up in any house or other building, or retire to any place, so that the collector's process cannot be served upon him; or shall escape after being taken into custody under such process; the collector who may have issued the process is immediately to represent the circumstances of the case, through the vakeel of Government,* to the dewanny adawlut of the zillah wherein the lands, for which the arrears are due, may be situated; and upon the peons deputed to execute the process, or any two or more credible persons, making oath to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, shall require the defaulter (or surety) by a publication in writing to deliver himself into the custody of the court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Persian and Bengal languages, if the estate or farm of the defaulter be in Bengal or Orissa; or, in the Persian language, and the Hindoostanee language and Nagree character, if it be situated in any other province; and is to be fixed up, as early after the date of it as may be practicable, at his usual place of abode, or the principal cutcherry in the

* The pleaders of Government having a fixed salary, besides the established fees in regular suits, it was determined by the court of Sudder Dewanny Adawlut, on the 6th March 1805, that they are not entitled to receive any fee upon representations submitted by them, on the part of the collectors, in the instances referred to.

estate, or farm, on account of which the arrears may be due; in the office of collector, and in the court room of the dewanny adawlut of the zillah. The collector is at the same time to hold in attachment the estate or farm of the defaulter, in like manner as if the process issued by him had been duly served and obeyed.

Second. If the defaulter, whether a landholder, farmer, or surety, shall not surrender himself before the expiration of the period limited in the publication, or if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge and hearing the evidence which he may produce in his defence, and that which the collector may adduce in support of his representation, it shall be proved to the satisfaction of the court that the defaulter is guilty of the charge, the court, in the instance of a defaulting landholder, "is to decree the proprietary right of the defaulter and his heirs in the estate on account of which the arrears may be due, forfeited to Government;" or, in the case of a defaulting farmer, the court is to "decree the lease of the farmer annulled from the expiration of the Bengal, Fuzaili, or Willaiti, year (according to the era current in the district where the farm is situated) in which the decree may be passed;" or if the defaulter be a surety, the court is to "adjudge him to pay a fine according to the nature of the offence, and his situation and circumstances in life." *Third.* If the defaulter, against whom a judgment may have been passed under the preceding rule, shall not appeal from the decree of the zillah court to the provincial court of appeal, within the time limited for preferring appeals to that court, the judge of the zillah court is immediately to transmit to the Governor General in Council a

Reg. 14, 1855.
Sec. 16, 1855.
Reg. 6, 1855.
Sec. 12, 1855.
Reg. 17, 1855.
Sec. 1, 1855.
Judgment to be passed if the defaulter shall not surrender himself within the time limited, or if he be convicted of the charge against him.

Decrees and proceedings in such cases to be transmitted to Governor General in Council.

* It is declared in the second clause of Section 18, Regulation 8, 1805, for the ceded and conquered provinces, that any landholder, or farmer of land, convicted of refusing to obey, or of resisting, or avoiding compliance with the authorized process of a collector for his personal attendance, will be liable to the same penalties as those prescribed for defaulting landholders, or farmers of land, convicted of disobedience, resistance, or evasion of the collector's process. And that if the offender in such cases be not a landholder, or farmer of land, he will be liable to the penalty prescribed for sureties convicted of the like offence. But this rule has not been enacted for Benares and the lower provinces; and as far as it involves a penalty of forfeiture cannot be constructively extended to them.

copy of the decree, and of all the proceedings respecting the charge. If the defaulter shall appeal to the provincial court of appeal within the prescribed period, and that court should confirm the decision of the zillah court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or, if it be appealable, and the defaulter shall not lodge an appeal within the time limited for preferring appeals to that court, the provincial court are immediately to forward a copy of their decree and proceedings on the appeal, and of the proceedings and decree of the zillah court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court of appeal by the Sudder Dewanny Adawlut, and that court should confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. If the judge of the zillah court decree the charge not proved, he is nevertheless to detain the defaulter, if in confinement under the prescribed process; and the collector is immediately to obtain from the court a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, (or Board of Commissioners) who are to order the collector to appeal from it, or not, as may appear to them proper. If the Board shall order an appeal to be preferred, and the provincial court should reverse the decision of the zillah court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if appealable, and an appeal should not be preferred within the limited time, the provincial court are to forward a copy of their proceedings and decree, and of the decree and proceedings of the zillah court, to the Governor General in Council. In like manner if the judge of the zillah court decree the charge proved, and his decision be reversed in the provincial court, the collector is immediately to transmit a copy of the decrees and proceedings of the zillah and provincial courts, with a letter stating his objections to the decree of the latter

ter court, to the Board of Revenue or Board of Commissioners, who are to order him to appeal the cause to the Sudder Dewanny Adawlut (provided the cause be appealable) or not, as they may think proper. If the cause be appealed, and the court of Sudder Dewanny Adawlut reverse the decision of the provincial court, and declare the charge proved, in affirmation of the decree of the zillah court, a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court, are to be transmitted to the Governor General in Council. Decrees of forfeiture or fine, in all the cases referred to, passed by a zillah or provincial court, or by the court of Sudder Dewanny Adawlut, are not to be carried into execution without an order from the Governor General in Council; to whom is reserved an option, within four weeks after receipt of the decree, either to order it to be executed; or to commute the forfeiture of the estate, or farm, of a defaulting landholder or farmer, to such fine, as he may think adequate to the offence; or to alleviate the fine adjudged against a surety. But if the Governor General in Council shall not, within four weeks after the decree shall have been received by him, either commute the forfeiture adjudged against a landholder, or farmer, to a fine; or alleviate the fine adjudged against a surety; the decree is to stand good against the defaulter. *Fourth.* In the event of the forfeiture of an estate, or farm, adjudged against a defaulting landholder or farmer, being commuted to a fine by the Governor General in Council, or of a fine being imposed by the final order of the Governor General in Council upon a surety, the court which shall have transmitted the decree and proceedings to the Governor General in Council, on receiving notice of the fine imposed by Government, are to cause the amount to be levied by the usual process for enforcing decrees of court, and to be paid into the treasury of the collector of the zillah. The judgment of forfeiture being remitted in such cases, the aumeen, or other officer, by whom the estate, or farm, may have been held in attachment, is to account to the landholder, or farmer, for the amount received by him during the period of the

And not to be executed without his order.

Option reserved to Governor General in Council of commuting forfeitures to fines; and of alleviating fines adjudged.

Decree to stand good if not annulled by Government within four weeks from receipt of same.

It is how to be levied and to whom paid.

Reg. 14, 1793.
Sec. 17.
Reg. 6, 1795.
Sec. 4.
Reg. 27, 1800.
Sec. 24.
Proceeds of lands, wharf

under attach-
ment, how
be appropri-
ed, when it
forfeiture of
estate, or far
is commuted
a fine.

Reg. 14, 179
Sec. 18.

Reg. 6, 179
Sec. 25.

Reg. 27, 180
Sec. 25.

Estate of a d
faulting land
holder, how
be disposed
in the event
the judgment
of forfeiture
being confir-
ed.

Reg. 14, 1793,
Sec. 20.

Reg. 6, 1795,
Sec. 27.

Reg. 27, 1803,
Sec. 27.

Proceeds of
farms, how to
be appropri-
ed, when the
farmer's lease
may be an-
nulled: and
who is respon-
sible for the re-
venue to the end
of the current
year.

attachment; and if it exceed the public revenue due, the expense of attachment, and the fine imposed upon the defaulter, the overplus is to be delivered to him. But if the amount received during the attachment be inadequate to the payment of these demands, and the defaulter shall not make good the deficiency, his property is liable to be sold for the discharge of it. *Fifth.* If the decree, adjudging the proprietary right in the estate of a defaulting landholder to be forfeited, shall be confirmed by Government, it is at the option of the Governor General in Council either to confer such right upon the heirs of the defaulter, on their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the estate, and to pay the revenue assessed upon it; or to dispose of it at public sale, subject to the payment of such revenue. If the estate shall be conferred upon the heirs of the defaulter, he is to be immediately released, if he should be in confinement. If the estate shall be disposed of at public sale, the proceeds of the sale are to be appropriated towards the discharge of the demands of Government, either on account of the public revenue, the expense attending the deputation of the aumeen, or other charges incurred in consequence of the default of the former proprietor. If no such demand shall be outstanding at the time of the sale, or if any such demand should be due, and the proceeds shall exceed the amount of it, the whole of the proceeds in the first mentioned case, and the overplus in the second, is to be carried to the public account, or applied in any other manner that the Governor General in Council may direct. *Sixth.* If the lease of a defaulting farmer be annulled by the final order of Government, he is to receive credit for the collections made from his farm, by the aumeen or other officer, to the end of the current year, after deducting the public revenue, and expense of attachment. If any balance remain due to Government at the close of the year, both the farmer and his surety are to be held responsible for the payment of it; or if there be a surplus, after discharging all demands, it is to be paid to the defaulter: who is further declared at liberty to prosecute in the

zillah court the talookdars, under-renters, ryots, and other tenants, for any arrears of rent that may be due to him from them, on account of the period during which his lease remained in force.

It has already been stated, in the first part of this Analysis,* that the collectors of the revenue and their assistants, as well as their native officers, "are amenable to the zillah or city court in the jurisdiction of which they may reside, or carry on the public business committed to their charge, for any acts done in their official capacity, in opposition to any regulation printed and published" in the prescribed form. The provisions of Regulation 8, 1806, directing the mode of proceeding to be observed upon the institution of complaints in the zillah or city courts, against collectors, or their assistants, or the other European public officers amenable to those courts, were also specified in the supplement to the first part†. But the reference to the Governor General in Council prescribed by Section 2, Regulation 8, 1806, and the inquiry provided for by Section 3, of that regulation, having been found productive of delay and inconvenience, these sections have been rescinded by Section 2, Regulation 2, 1814, and the following rules have been substituted by the subsequent provisions of that regulation. § 3. *First*. "Whenever a petition of complaint against a collector of the land revenue or customs, a commercial resident, salt agent, or opium agent, or other person amenable, for acts connected with his official duties, shall be presented to any court of civil judicature competent to receive and try such cases, the judge or judges of such court shall transmit the petition so received to the Board of Revenue, Board of Commissioners, or Board of Trade, according as the person against whom the complaint may be preferred, may be subject to either of those authorities." *Second*. "The Board of Revenue, Board of Commissioners, or Board of Trade, on receipt of any petition of the nature described in the preceding clause, shall immediately take

Collectors and their assistants amenable to zillah courts, as already stated, for all official acts in opposition to the regulations.

Mode of proceeding to be observed on complaints against them also before stated, as provided for by Sec. 2 and 3, Reg. 8, 1806.

But the section here rescinded by Sec. 2, Reg. 2, 1814.

Reg. 2, 1814. Sec. 3. Whenever a petition of complaint may be preferred against a collector or other person for acts connected with his official duties, the judge or judges of the civil court by whom the petition may be received, is to transmit it to the Board or Boards, whose authority the person complained against may be subject.

The Boards, on receipt of any such petition, to determine whether the remedies solicited

* Vol. 1, page 43.

† Page 618, and sequel.

should be granted directly by Government, or whether the complainant should be left to prosecute his suit in the regular course of law.

The Boards show how the party complaining may be actually aggrieved, and may appear entitled to redress from Government.

And how to advise the complainant should be left to prosecute the suit in the regular course of law.

Sec. 2.
The provisions of this regulation are only applicable to cases mentioned in Sect. 2 and 3, Reg. 8, 1806, and not to charges mentioned in Reg. 27, 1813.

the circumstances stated therein into their consideration, in order to judge whether the redress solicited should be granted directly by Government, or whether the complainant should be left to prosecute his suit in the regular course of law." *Third.* "Should the Board of Revenue, Board of Commissioners, or Board of Trade, be of opinion, after making due enquiries on the subject, either by consulting their own records, or by a reference to the local authorities, or in any other mode which may be judged advisable, that the party complaining has been actually aggrieved, and that he is entitled to redress directly from Government, they shall submit the necessary report on the subject, accompanied with their opinion, as to the nature and extent of the relief which should be granted." *Fourth.* "Should the Board of Revenue, Board of Commissioners, or Board of Trade, be of opinion after making due enquiries on the subject, that the party complaining should be left to prosecute the case in the regular course of law, they shall inform the judge or judges of the court, from whom the petition may have been received, of the result of their deliberation on that point; and such communication shall be deemed sufficient authority for the formal institution and trial of the suit in question. The Boards aforesaid shall at the same time determine whether the suit should be defended by the public officers, as an action against Government, or by the person affected by the complaint in his individual capacity; and shall inform the judge or judges, by whom the case may have been referred to them, of their decision on this point accordingly." S. 4. "In order to prevent misconstruction, it is hereby declared, that the foregoing provisions are only intended to apply to cases of the description of those mentioned in Sections 2 and 3, Regulation 8, 1806; and are not to be considered applicable to charges of corruption, for the receipt and trial of which separate provisions have been established by Regulation 17, 1813."*

THE

* These provisions having been enacted since the first part of this Analysis was printed, and having been substituted for those contained in Regulations 8 and 10, 1806, which were cited in pages 461 to 464, and 624 to 630, of vol. I, it may be useful

THE following further rules are contained in the regulations prescribed for the guidance of the collectors, and their officers, in

Further rules in
Low. Pro. Reg.
14, 1793; B.
Reg. 6, 1795
and Up. Pro.
Reg. 27, 1803.

useful to insert the following rules now in force, under Regulation 17, 1813; the preamble to which states it to have been judged advisable to simplify the former rules, with a view to the more expeditious termination of the investigations referred to, and to other objects connected with the public convenience. § 2. "Sections 4 to 19, Regulation 8, 1806 and Regulation 10, 1806, (excepting such part thereof as relates to the security to be required from persons preferring charges of corruption or extortion against the Hindoo and Mohammedan law officers and ministerial Officers of the courts of judicature), are hereby rescinded." § 3. *First*. "Whenever a complaint or charge of corruption, viz. of the corrupt demand or receipt of money, or other valuable thing, as a gift or present, or of the embezzlement of public stores, or of any fraud or breach of public trust, or other gross misdemeanor, shall be preferred against any European officer attached, or who had been attached, to the Judicial Department, or when any matter of the nature in question, implicating the conduct of a judicial officer, shall appear in the course of any proceeding which may come before the Sudder Dewanny Adawlut, or be specially reported to it by a subordinate court, the enquiry into such charge, or complaint, shall be conducted according to the following provisions, under the superintendence of the court of Sudder Dewanny Adawlut." *Second*. "Whenever a charge or complaint, of the nature of those described in the preceding clause, shall be preferred against any European officer attached, or who had been attached, to the revenue department, or when any matter of the nature in question, implicating the conduct of a revenue officer, shall appear in the course of any proceeding which may come before the Board of Revenue, or Board of Commissioners, the enquiry into such charge or complaint shall be conducted under the superintendence of the Board of Revenue, or Board of Commissioners, according as the person accused may be, or may have been, subject to the authority of one or the other of those Boards, when the alleged acts of misconduct were committed." *Third*. "Whenever a charge or complaint, of the nature of those above mentioned, shall be preferred against any European officer attached to the commercial, salt, or opium department, or otherwise subject to the authority of the Board of Trade, or whenever any matter of the nature in question, implicating the conduct of any such officer, shall appear in the course of any proceeding which may come before that Board, the enquiry into such charge or complaint shall be conducted under the superintendence of the Board of Trade." § 4. *First*. "With a view to the protection of the characters of the public officers, it is hereby declared, that no accusation or information of the nature above described shall be acted upon, unless the truth of the charge be averred on oath, or under a solemn declaration (if the deponent be of a rank, or cast, which would render it improper to require his oath) from the deponent's personal knowledge of the facts and circumstances, on which the charge is grounded." *Second*. "With a view likewise to the more effectual accomplishment of the purpose stated in the preceding clause, that is, the protection of the characters of the public officers from malicious and calumnious aspersions, it is hereby declared that it shall be competent to the Sudder Dewanny Adawlut, to the Board of Revenue, the Board of Commissioners, and the Board of Trade, should they deem it advisable, to require the person, by whom any public accusation or information may be preferred, to furnish such security as may be deemed

Reg. 14, 1793.
§ 19, Reg. 6,
1795, § 35:

in realizing the land revenue of the several provinces. 1. "Any person confined for arrears of revenue, or other demands of Government

reasonable, to attend and to secure the charge to a conclusion; and supposing such security not to have been taken in the first instance, to require it in any subsequent stage of the business, should circumstances appear to render that precaution at any time necessary or proper." § 5. *First*. "Whenever any charge or information, of the nature above described, shall be preferred direct to the Sudder Dewanny Adawlut, the Board of Revenue, the Board of Commissioners, or Board of Trade, it shall be the duty of those authorities to examine the complainant or informant circumstantially on oath, or under a solemn declaration if he be entitled to be exempted from taking an oath, and likewise to make such further general enquiries on the subject, either by a reference to the public records, or by calling on the party accused for an explanation of the alleged acts of misconduct, or in any other mode which the nature of the case may suggest, as may be sufficient to satisfy their minds whether grounds exist for a regular and formal enquiry into the said charge or information or otherwise." *Second*. "In order, at the same time, to afford sufficient facilities to persons, who may have substantial grounds for complaint against any of the public European officers employed in the judicial, revenue, commercial, salt, and opium departments, to obtain redress of any real grievances, it shall be the duty of every court of civil jurisdiction, by which any public charge or information of the nature above described may be received, to examine the complainant or informant circumstantially on oath, or under a solemn declaration if he be entitled to be exempted from taking an oath, and to transmit the deposition so taken to the Sudder Dewanny Adawlut, the Board of Revenue, the Board of Commissioners, or Board of Trade, according as the person accused may be subject to either of those authorities, for their further consideration, and for such further general enquiries as may be judged necessary for the purposes aforesaid in the preceding clause." *Third*. "Should the Sudder Dewanny Adawlut, the Board of Revenue, or Board of Commissioners, or Board of Trade, according as the case may be brought before either of those authorities, be of opinion, that the charge or information is frivolous and vexatious, they shall merely inform the party that they do not see any substantial reason for entering further into the enquiry." *Fourth*. "Should either of the authorities, mentioned in the first part of the preceding clause, be of opinion, after the general enquiries above noticed, that substantial grounds exist for making a regular and formal enquiry into the truth of any public charge, or information, which may be preferred against any European officer subject to their control, they shall submit the documents on which their opinion may be grounded, together with a clear statement of the charges, reduced to distinct heads or articles, which they would propose to be made the subject of a regular investigation, to the Governor General in Council for his consideration and orders." § 6. *First*. "Should the Governor General in Council, on receipt of the report above described, concur with the authority by which it may be submitted, that a regular investigation should be made into the truth of the charge or information preferred against the person accused, he will appoint a commissioner, or commissioners, for the performance of that duty, who, previous to entering on the discharge of it, shall take the following oath—"I, A. B. appointed a commissioner for making a special enquiry into a certain charge (or charges) exhibited against C. D. do hereby solemnly swear, that I will faithfully and impartially perform the duty committed to me,

vernment, either pursuant to a judicial decree, or without such decree, shall be at liberty to apply to the judge of the zillah court,

Reg. 27, 1862,
231.

me, without fear, favor, or bias, to the best of my ability, knowledge, and judgment. So help me God." *Second.* "The Governor General in Council will at the same time order the commission, so appointed, to be holden at such place as may be most convenient, and best adapted to the ends of justice." § 7. "The Sudder Dewanny Adawlut, the Board of Revenue, the Board of Commissioners, and the Board of Trade, (according as the person accused may be under one or the other of those authorities,) are hereby invested with a general control over the proceedings of all commissions constituted under the present regulation. The commissioners are accordingly to apply to the court of Sudder Dewanny Adawlut, and to the Boards respectively, for any instructions which they may require in the execution of the duty entrusted to them, for which provision may not have been expressly made by the present, or any other regulation, and the Court and Boards above mentioned, are empowered to pass such orders on the subject, as may appear to be most consonant to the general principles of equity, and most conducive to the purposes of substantial justice. Provided however, that if any doubt or difficulty should arise in the conduct of such investigations, for which it may appear to be advisable to make provision by a general regulation, the said Court and Boards shall prepare the necessary draft of a regulation for the purpose, and submit it to the Governor General in Council for his consideration." § 8. "Whenever a special commission may be appointed under the provisions of this regulation, for the investigation of charges exhibited against a public officer, the Governor General in Council will determine, on a view of the nature and circumstances of the case, whether the accused shall be suspended from the discharge of the functions of his office, and if so, whether he should be permitted to draw the established allowances of his office, or otherwise." § 9. "Whenever a charge shall be referred for investigation to a special commission, the Governor General in Council will determine whether the conduct of the prosecution shall be left to the accuser, or be undertaken on the part of Government. In the latter case, the Governor General in Council will nominate such person or persons as may be deemed proper, to bring the evidence in due order before the commission, to attend the proceedings, and conduct the prosecution on the behalf of Government." § 10. "It shall be the general duty of commissioners appointed under this regulation, after receiving the plaint or charge, and the documents from which the same may have been prepared, to call upon the person accused for his reply to the accusation, to examine upon oath, or under a solemn declaration, the witnesses named by the accuser, or the accused, as having knowledge of the facts relative to the charges or defence, to receive any further written documents offered in support of, or against the accusation, and to call for and take any further requisite evidence which may be indicated by the witnesses adduced, or documents exhibited, by either party, and may appear to be necessary for the ascertaining of facts, or the discovery of the truth or falsehood of the charges, or of any part thereof." § 11. "For the discharge of the duties specified in the preceding section, or any other functions which may be delegated to a commission constituted under this regulation, it shall be vested with the same powers as are exercised by the zillah, and city courts; except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through, and executed by, the zillah or city judge in whose jurisdiction the

court, to require the collector to shew cause why he is continued in confinement. If the person making such application, shall be

commission may be held, or the witness, or other person upon whom the process is to be served, may reside." § 12. "On the close of the evidence in support of the prosecution, and the defence of the accused, he shall be at liberty to record any observations upon the result of the enquiry, which he may think necessary for the vindication of his conduct and character. The accuser, or person appointed to conduct the prosecution on the part of Government, shall also be at liberty to record any remarks on the subject of the prosecution which he may deem requisite." § 13. "When the proceedings of the commission shall have been concluded, or as soon afterwards as circumstances may admit, the commissioner, or commissioners, shall transmit to the Sudder Dewanny Adawlut, the Board of Revenue, or Board of Commissioners, or the Board of Trade, as the case may be, the whole of the proceedings held, and documents received (accompanied with translations of papers not in the English language,) together with a summary of the pleadings and evidence, and his or their opinion on the merits of the case." § 14. "The Sudder Dewanny Adawlut, or the Boards to which the case may belong, after duly considering the proceedings and the report transmitted to them under the preceding section, and after calling for any further evidence which may appear to them attainable and requisite, shall submit the whole of the proceedings and documents received by them to the Governor General in Council, with their opinion, whether any and what facts charged against the party accused appear to have been established." § 15. "The Governor General in Council, on consideration of the report and proceedings submitted to him, in pursuance of the foregoing section, will pass such decision on the case, as may appear to him most consonant to the principles of justice, and to the constitutional powers possessed by Government in matters of this description, and in the event of his deeming it necessary that the party accused should be brought to trial, by a public prosecution in the Supreme Court of Judicature, will issue the necessary instructions for that purpose to the law officers of Government. For whatever proceedings may be held, or whatever decision or order may be passed by Government in the premises, touching any grievance by any of the public officers, will be at all times at liberty to seek redress in the Supreme Court in the mode prescribed by law." § 16. "In cases in which it shall appear, on a full investigation of the merits of the case, that the charges or complaints preferred against any of the European officers above-mentioned are well founded, the person by whom they may have been preferred, shall be at liberty to submit an application to the Sudder Dewanny Adawlut, the Board of Revenue, Board of Commissioners or Board of Trade, as the case may be, praying a reimbursement of the expense which may have been incurred by him in the conduct of the prosecution, and the authority, to whom such petition may be presented, shall forward it to Government, with their opinion as to the propriety of indemnifying the party for the expense so incurred or otherwise. The Governor General in Council will of course, on receipt of any such reference, consider and determine whether it be advisable to comply with the application in question, but it is to be clearly understood, that Government does not pledge itself to indemnify any person for the expense which may be incurred on occasions of the above nature, whatever may be the result of the investigation, except in cases in which the Governor General in Council, in the exercise of a sound discretion, may deem it proper and expedient to do so."

confined under a decree passed by the Sudder Dewanny Adawlut, or of the zillah court, or the provincial court of appeal, and the time prescribed for appealing from the decision shall have elapsed, the judge is not to enter into the merits of the case, but only to enquire whether the prisoner has discharged the amount of the decree, and the sums which may have become due from him subsequent to his confinement. If the prisoner shall not be confined under a judicial decree, but under the process which the collector is empowered to observe before conveying persons to jail for claims of Government, and he shall dispute the justness of the demand, the judge is not to enquire into the merits of the case, unless the party should renew his complaint, after the expiration of the period during which the collector, by the discretionary power vested in him, is authorized to confine parties in arrears. If however the prisoner shall admit the justness of the demand for which he was confined, as well as any other claims that may be made upon him for sums stated to have become due from him subsequent to his confinement, and shall assert that the whole of such sums have been discharged by him, the judge is to proceed to enquire into the merits of the case. Upon examination of the prisoner's accounts of his payments, if it shall appear to the judge that the demands for which he may be in confinement, have been liquidated, he is to release him, upon his giving security to make good any sum which the collector may state to be still due from him, in the event of the cause being appealed, and the sum being awarded in favor of Government. If the collector shall not object to the adjustment of accounts made by the court, or if he shall object to them, and the person confined shall omit to give the security above required, and the collector shall not appeal within the time limited for preferring appeals, the judge is to release the prisoner without taking any security. If it shall be found that the whole or a part of the sum for which such person may be in confinement remains undischarged, and he shall acquiesce in the adjustment of accounts made by the court, and shall have been confined on account of

Rule applied
where a person
is confined
without a judicial
decree.

such demand for a term exceeding one year, the judge is empowered to release him, upon his giving good security to pay the sum remaining due from him by instalments during the course of one year after his release." 2. "Upon a decision being passed in any zillah court, by which the whole, or any part, of a sum of money that may have been demanded, or actually received by the collector, as an arrear of revenue, from any proprietor or farmer of land, shall be adjudged not to be due, the collector is to apply immediately to the court, through his own vakeel, for a copy of the proceedings and decree. The court is to order copies of the proceedings and decree to be delivered to the collector with all practicable dispatch. The collector is to forward the papers without delay to the Board of Revenue, or Board of Commissioners, with a letter stating his objections to the decree. If the Board shall be of opinion that the decision is not well founded, they are to authorize the collector to appeal the cause to the provincial court of appeal. If that court shall confirm the decision of the zillah court, the collector is to apply for, and the court is to grant, a copy of their proceedings on appeal, exclusive of the decree and proceedings received from the zillah court. The collector is to forward the decree and proceedings of the provincial court to the Board of Revenue, or Board of Commissioners, with a letter, containing his objections to the decree of that court. If the Board shall be dissatisfied with the decision of the provincial court of appeal, and the cause shall be appealable to the Sadler Dewanny Adawlut, they are to direct the collector to prefer an appeal to that court. If the Board are satisfied with the decision of the provincial court of appeal, they are to direct the collector not to prefer an appeal to the Sadler Dewanny Adawlut. In all cases in which the Board of Revenue, or Board of Commissioners, may order the collector to prefer an appeal to the provincial court, the collector is to be indemnified by Government for all costs and damages that may have been awarded against him by the zillah court. On the other hand, if the Board of Revenue or Board of Commissioners shall deem the decision of

Reg 14, 1709,
Sec 31, 1 b.
6, 1710, 5 c.
26, Reg 27,
183, Sec 33
Collector how
to proceed in
case of a de-
mand being
made on a
proprietor or
farmer of land
in the zillah
court, on
account of a
demand or
arrears of re-
venue.

Collector to be
indemnified for
all expenses in-
curred in suits
in the zillah
court from de-
cisions on
appeal to the
Board of Re-
venue or Board of
Commissioners
or by order of
a court.

the zillah court equitable, and not direct an appeal, the collector is to defray all the costs and damages that may have been awarded against him in that court. The collector is nevertheless to be at liberty to appeal the cause, but at the risk of paying all costs and damages that may be adjudged against him in appeal, in the event of his being ultimately cast. Appeals in which the collector may be engaged, either in the provincial court of appeal, or the Sudder Dewanny Adawlut, in consequence of orders from the Board of Revenue, or Board of Commissioners, are to be carried on by the vakeel of Government, and at the public expense.” 3. If a collector shall be prosecuted for a breach of

the rules prescribed for his guidance, “and the prosecutor shall be cast, or be dissatisfied with the decision of the judge of the adawlut of the zillah, and appeal to the provincial court of appeal, the collector is to appoint one of the vakeels of that court to plead the cause. If the decree of the zillah court shall be confirmed, or the appellant should be dissatisfied with the decision of the provincial court of appeal, and appeal to the Sudder Dewanny Adawlut, and an appeal shall be admitted, the collector is to appoint one of the pleaders in that court to defend the suit. If the provincial court of appeal shall not confirm the decision of the zillah court, the collector is to apply to the provincial court for a copy of the proceedings and decree of the zillah court, and of their proceedings and decree in the appeal. The courts are to furnish the collector with these papers with all practicable dispatch; and the collector is to forward them to the Board of Revenue, or Board of Commissioners, with a letter, stating his objections to the decree in appeal. If the Board shall be of opinion that the decree of the provincial court is not well founded, they are to authorize the collector to appeal to the Sudder Dewanny Adawlut. If the Board shall see no ground for appealing from the decision of the provincial court of appeal, the collector is nevertheless to be at liberty to prefer an appeal to the Sudder Dewanny Adawlut, but at the risk of paying all the costs and expenses which may be awarded against him by that

court,

Reg. 14, 1793.
Sec. 31. Reg.
6 1795. Sec.
37 Reg 27.
1813, Sec 34.
If priora pro-
secuting the
collector shall
be cast, and ap-
peal, the col-
lector is to no-
minate one of
the vakeels of
the provincial
court of appeal,
to defend the
appeal.

In the decision
of the zillah
court should be
confirmed, and
the cause be pe-
titioned to the
Sudder Dewa-
ny Adawlut,
and in appeal
be admitted,
the collector is
to appoint one
of the vakeels
of that court to
defend the ap-
peal.

Collector how
to proceed, if
the provincial
court should
not confirm the
decision of the
zillah court.

Board of Reve-
nue to order
the collector to
appeal, if they
think the deci-
sion of the pro-
vincial court
not well founde-
d.

If the Board of
Revenue shall
not direct an
appeal, the col-
lector is to be
at liberty to ap-
peal, but at his
own risk.

All appeals preferred by the collector under this section, are to be carried on at the public expense, and at the public expense.

Reg. 14, 1795, Sec. 32, Reg. 6, 1795, Sec. 33, Reg. 27, 1803, Sec. 35. The collector is to appoint a vakeel of the zillah court, to defend suits preferred against him under this regulation, and to note the name of the vakeel at the cost of appeal to carry on appeal, which he may have preferred without the orders of the Board of Revenue.

Reg. 14, 1795, Sec. 32, Reg. 6, 1795, Sec. 33, Reg. 27, 1803, Sec. 35. When a collector is appointed to defend a suit, he is to be considered as a private individual, and not as an officer of the Government, and he is to be liable to defend suits.

court, in the event of his being cast. All appeals that may be preferred by the collector to the provincial court of appeal, or to the Sudder Dewanny Adawlut, or in which he may be respondent, under this section, agreeably to the orders of the Board of Revenue or Board of Commissioners, are to be carried on at the public expense, and conducted by the vakeel of government, who is to be furnished with the necessary instructions for that purpose by the collector." 4. "In every case in which a collector may be prosecuted in any zillah court, for sums demanded or received by him on behalf of Government, from any proprietor or farmer of land, or from any surety, or from any purchaser of land, or for any sums demanded, or received, or taken by him directly or indirectly, for his own use, from any of the abovementioned descriptions of persons, over and above what he may be entitled to demand on behalf of the public, or for any acts done in his official capacity, that may be repugnant to the regulations, or which may not be warranted by them, and in appeals that he may have preferred without the orders of the Board of Revenue or Board of Commissioners, he is to appoint any of the authorized vakeels of the court before which the suit may be brought, to plead the cause." 5. "In prosecutions that may be instituted in any zillah court, against a collector, for sums of money demanded, or directly or indirectly received, or taken by him, for his own use, from any proprietor or farmer of land, or any surety, or any purchaser of land, or for any acts done in his official capacity that may be repugnant to the regulations, or which may not be warranted by them, and shall not involve any claims to sums received or demanded by him on behalf of Government, the collector is not to forward the decree and proceedings to the Board of Revenue or Board of Commissioners. The suit is to be considered entirely as a dispute of a private nature, between the collector and the prosecutor; and the collector is to defend it at his own risk and expense, in the same manner as individuals amenable to the courts, and not employed by Government, are required to defend suits instituted against them." 6. "The collector is not to derive any

pecuniary

pecuniary advantage whatever from suits that he may institute, or which may be preferred against him, in any of the courts of justice, in his official capacity, with the exception of suits in which he may be engaged under the preceding rule, the sums awarded to him in which he is to apply to his own use. On the other hand, it is not intended that the collector should sustain any loss in levying the dues of Government, in cases in which his conduct may be adjudged by a final judicial decree to be conformable to the regulations. The collector is accordingly to bring to the credit of Government, in his monthly accounts, all sums whatever (with the exception above specified) that may be adjudged to him as costs or damages, by any of the courts of civil justice; and he is to insert at the foot of his monthly accounts, or in a separate account, or in his monthly accounts under a distinct head, according as the Board of Revenue or Board of Commissioners may deem advisable, all sums which he may disburse, on account of process or suits directed to be carried on by the vakeel of Government, the costs and damages in which are expressly directed to be defrayed by the public; or in suits, the costs and damages in which may be ultimately defrayable by Government, but for which the collector is directed to be held responsible in the first instance. But he is in no case to charge these disbursements in his accounts, without previously obtaining the special sanction of the Board of Revenue or Board of Commissioners for that purpose. Until such sanction is procured, the collector is to be held answerable for the disbursements." 7. "If a collector shall have been compelled to pay costs or damages in any suit; and upon his stating the case to the Board of Revenue, or Board of Commissioners, it shall appear to them, upon a consideration of the circumstances of it, that he ought not to be made responsible for the amount, the Board are to transmit the case to the Governor General in Council, who will determine whether the collector shall be made responsible for such costs or damages, or not." 8. "Security is not to be demanded from the collector for his personal appearance, in any suit in which he may

Sec. 34. Reg. 6, 1795a Sec. 40. Reg. 27a 1803, Sec. 37. Collector not to derive any pecuniary advantage from suits in which he may be engaged; except in the cases specified in the preceding rule; nor to suffer any loss, if his conduct is determined to be conformable to this regulation.

Collector to bring to account all costs and damages that may be adjudged to him with the exception above specified.

Collector to issue from the public treasury, and note in his accounts, the expenses of suits that are at all events to be defrayed by Government, as well as the expenses of suits that may be ultimately defrayable by Government; but not to insert such expenses in his accounts with or on the sanction of the Board of Revenue.

Reg. 14, 1793: Sec. 35. Reg. 6, 1795, Sec. 41. Reg. 27a 1803, Sec. 38. Board of Revenue to report to the Governor General in Council any cases in which a collector may have been compelled to pay costs or damages and for which they may be of opinion he ought not to be made responsible.

Reg. 14, 1793: Sec. 36. Reg. 6,

1895, Sec. 42.
Reg. 27, 1893,
Sec. 39.
Cases in which
security is to be
demanded from
the collector for
costs or damages
or for the per-
formance of de-
crees of the
court.

be engaged under the regulations. Nor shall any security be required from him for the payment of costs, or for the performance of the decrees or orders of the court, in suits which are directed to be carried on by the vakeel of Government, and at the public expense. In suits for sums demanded or received by the collector on behalf of Government, [for the costs and damages in which he is declared eventually responsible, the courts are to require the same security from the collector for the payment of the costs and damages, as would be taken in similar cases from individual suitors; but they are not to require any security from him, for the performance of their decrees respecting the sums which may constitute the subject of the suits, as Government will be answerable for the due performance of them. In the suits described in the fifth rule, which may be instituted against the collector, he is to give the same security for the payment of costs, and the performance of the decrees and orders of the court, as would be required from individual suitors in similar cases. If a collector shall refuse, or omit, to pay within the limited period, any sum of money that may be ordered to be levied from him, either on account of such suits, or as costs or damages in any other suits for the expenses incurred in which he is declared eventually responsible, the court is to levy the amount from his surety, by the customary process. If the court shall not be able to obtain payment from his surety, the judge is to report the circumstances to the Governor General in Council, who will order the amount to be paid from the public treasury, and deduct it from the allowances which may be receivable by the collector from Government. In all other cases, if a collector shall omit or refuse to obey any order or decree of a court of judicature, the court, from which the process shall have issued, is to fine him according to the nature of the offence. In the event of the collector refusing or omitting to pay the fine, the court is to report the circumstances to the Governor General in Council, who, provided he shall approve of the fine, will order the amount to be stopped from the allowances which he may, receivable by such collector from Government.”

Court how to
proceed in the
event of a col-
lector omitting
or refusing to
obey any order
or decree.

9. "The Board of Revenue, and Board of Commissioners, are to issue such instructions as they may think advisable to a collector, regarding the mode of inserting in his monthly accounts the sums which may be paid to him as costs and damages, in consequence of the orders or decrees of any of the courts of civil judicature; or noting at the foot of his accounts, or charging under a separate head in his monthly accounts, the sums which he may disburse as costs or damages, which are expressly directed to be defrayed by Government, whatever may be the final decision in the cause; or that may be ultimately defrayable by Government, although in the first instance the collector is to be held responsible for them; and to require such vouchers as they may deem necessary for such receipts and disbursements, as well as for the sums which the courts may adjudge to be repaid from the public treasury, or not to be due to the public.*

10. "When any process, or order, shall be issued by any of the courts of civil judicature to a collector, in suits instituted under the regulations, the register of the court, immediately serving the process or order, is to transmit it under a cover, sealed in the form of a letter, and superscribed with his name and official appellation, and addressed to the collector. The collector is to acknowledge the receipt of the process, or order, on the day on which he may receive it, by a letter addressed to the register of the court by which it may have been served." 11. "To facilitate the communication between the collector, and the vakeels in the provincial courts of appeal, and the Sudder Dewanny Adawlut, who may be entrusted with the conduct of any appeals, (including appeals from decisions in the suits described in the fifth rule) in which the collector may be engaged, either whilst he may continue in the office of collector of the district in which the suits may

Reg. 14, 1793h
Sec 37 Reg.
6, 1795, Sec.
43 Reg 27,
1803, Sec. 408
Art 1 of Revenue and Board
of Commissioners to issue in-
structions to the collector re-
garding the
mode of insert-
ing, or not in-
serting, in his
accounts, his re-
ceipts and dis-
bursements in
the suits herein
mentioned; and
to require such
vouchers for the
sums as they
may think prop-
er.

Reg 14, 1793,
Sec 38, Reg.
6, 1795, Sec 44
Reg 27, 1803,
Sec. 41.
Process issued a-
gainst collector
how to be serv-
ed.

Reg. 14, 1793,
Sec 39, Reg. 6,
1795, Sec 45,
Reg. 27, 1803,
Sec 42.
Collectors al-
lowed to forward
instructions to
their vakeels in
the courts of ap-
peal, by the
dak, free of
postage.

* On the 29th May 1795, the Governor General in Council desired the Board of Revenue to "order the collectors to pay the established fees on all suits in which they may be engaged on the part of Government." And on the 11th May 1798, the Board of Revenue directed their accountant to furnish them with an annual account of the receipts and disbursements in the treasury accounts of the collectors incidental to law proceedings; with such explanations as might be necessary, for their orders.

have arisen, or after his removal from the office, the collector is permitted to forward, free of postage, any instructions regarding such appeals, which he may have to transmit to the vakeels of those courts. The instructions are to be enclosed under cover, sealed and directed to the vakeel. The instructions, so sealed and directed, are to be transmitted under a sealed cover, addressed to the register of the court in which the cause may be depending, and superscribed with the name, and the official appellation, of the collector, or that which he bore when the cause of action arose. The register of the court, immediately upon receiving the instructions, is to deliver them sealed to the vakeel to whom they may be directed. Any person who may be removed from the office of collector, and who may have a suit or suits depending in the zillah court, after his removal from the office, is likewise empowered to forward instructions to his vakeel, respecting such suit or suits, through the register of the court. In like manner, the vakeels in any of the courts to whom the pleading of suits may be committed by persons holding the office of collector, or after they have been removed from the office, are authorized to forward any papers which they may have to convey to their employers, by the public dawk, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the vakeel, and the register of the court is to transmit the papers so sealed, in a cover sealed and addressed to the person to whom they are to be forwarded, and superscribe the cover with his official signature." 12. "No collector is to be liable to prosecution for any official acts of his predecessor. But persons who may be removed from the office of collector of the revenue, are to carry on, in the same manner as if they had continued in the office, all suits of the nature of those described in the fifth rule, in which they may be engaged, and all suits preferred against them in any zillah court, for sums that they may have demanded or received on behalf of Government, and for the costs and damages in which they are declared eventually answerable; as well as all suits, being appeals from decisions in the suits of the last mentioned description; excepting such

Instructions to be sealed, and enclosed under a sealed cover, addressed to the register of the court.

Persons removed from the office of collector, and having suits depending in the zillah court, empowered to forward instructions to their vakeels by the public dawk, or through the register of the court.

Vakeels in any of the courts, employed by collectors, empowered to forward papers to their employers by the public dawk, free of postage, through the register of the court, in which the cause may be depending.

Reg 14, 1793-
Sec 41, Reg
6 1795, Sec
47 N 2 27,
2803 Sec 44
Collector not to be liable to prosecution for the acts of his predecessor. What suits persons removed from the office of collector are bound to prosecute or defend after their removal.

of those appeals as they may have preferred, or in which they may have become a party, in consequence of orders from the Board of Revenue or Board of Commissioners." 13. "If the collector of any zillah shall die, or be removed from his office, his successor is to carry on all unfinished process of suits, directed to be conducted by the vakeel of Government, and at the public expense; and all appeals from the decrees of the zillah court, or the provincial court of appeal, in such cases; as also all appeals from the decrees of the zillah court, or the provincial court of appeal, in which the former collector may have been engaged, in consequence of orders from the Board of Revenue or Board of Commissioners, and which are directed to be pleaded by the vakeel of Government, and at the public expense." 14. "In cases in which the Board of Revenue, or Board of Commissioners, may judge it expedient, or in which they may receive orders for the purpose from the Governor General in Council, they are to take upon themselves the superintendence of the prosecution or defence of any appeal in the Sudder Dewanny Adawlut, which a collector may prefer, or be engaged in, pursuant to their orders, instead of leaving the superintendence of the appeal to him" 15. "If a proprietor, or farmer of land, or a surety, or a purchaser of land, shall deem himself aggrieved under the regulations, by any act which may be done by a collector, in conformity to special orders from the Governor General in Council, or the Board of Revenue, or Board of Commissioners; or if a collector shall demand a sum of money under the regulations, on behalf of Government, from any of the abovementioned descriptions of persons, and the stated defaulter shall admit the demand to be conformable to the engagements or stipulations under which the collector may make the demand, but deny their validity, or have any objections to make to them, either wholly or in part, under any regulation passed by the Governor General in Council, and printed and published in the prescribed form, the collector is not to be liable to any prosecution on account of such act, or the demands that he may make conformably to such engage-

Reg. 14, 1793,
Sec. 48 Reg. 6,
1795, Sec. 48,
Reg. 27, 1803,
Sec. 45
Collector to carry on the unfinished suits and process herein specified, which may have been instituted under his predecessor.

Reg. 14, 1793,
Sec. 48 Reg. 6,
1795, Sec. 48,
Reg. 27, 1803,
Sec. 46
Cases in which the Board of Revenue or Board of Commissioners are to take up and settle the prosecution or defence of appeal in the Sudder Dewanny Adawlut.

Reg. 14, 1793,
Sec. 45 Reg. 6,
1795, Sec. 48,
Reg. 27, 1803,
Sec. 48
Zillah courts how to proceed in a case in which persons may dispute the validity of the engagements under which demands may be made upon them by the collector or have any objections to make to the engagements, either wholly or partially, under the regulations, or deem themselves aggrieved by acts done by the collector in conformity to special orders from the Governor General in Council, or the Board of Revenue or Board of Commissioners.

ments, or stipulations, which are to be held valid until they are set aside, or altered by a final judicial decision; and the proprietor or farmer of land, or surety, or purchaser of land, is to discharge the demands that may be made upon him by the collector under such engagements or stipulations, until the decision shall be passed. In the cases above specified, Government is to be considered as a party in the cause with its subjects, and the proprietor or farmer of land, or the surety, or purchaser, is to present a petition to the judge of the adawlut of the zillah in which the cause may be cognizable, stating his objections to the act, or to the engagements, or stipulations, and praying that the Governor General in Council will order the court of adawlut of the zillah to try the points or matter contested under the regulations. The judge to whom the petition may be presented, is to forward it immediately to the Governor General in Council,* who, provided he shall not think it proper to afford the redress that may be solicited by the petitioner, and the courts of justice shall be competent to try the cause, will direct the court in which it may be cognizable, to proceed to the trial of it. If the Governor General in Council shall order the cause to be tried, the judge of the court is to send a written notification of the order to the complainant, and the cause is to be considered as filed in the court from the date of the notification. The court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The collector is to carry on, under the orders of the Board of Revenue or Board of Commissioners, all suits that may be instituted against Government in conformity to this rule, and to issue the necessary instructions to the vakeel of Government, in the zillah court, and in the provincial court of appeal, or the Sudder Dewanny Adawlut, should the cause be appealed to the former, or both of those courts. In the event of Government being cast in the zillah court, or in the provincial court

* This rule is modified by the provisions of Regulation 2, 1814, which have been cited in page 423.

of appeal, the collector is to send copies of the decree and proceedings of the court, (which are to be delivered by the court to the collector as soon as may be practicable, upon his applying for them) with a letter stating his objections to the decision, to the Board of Revenue or Board of Commissioners, who are to submit them, with their opinion on the case, to the Governor General in Council; and he will order an appeal to be preferred from the decision or not, as he may deem advisable. All costs and damages that may be awarded against Government in suits instituted under this section, are to be defrayed from the public treasury **

To the rules which have been stated under the present head, it appears sufficient to add. *First.* That such of them as respect the collectors of the land revenue are declared “equally applicable to the assistants to the collectors; or any other persons who may be appointed by the Governor General in Council to officiate as collectors, during the temporary absence of a collector, or whilst the office may be vacant.” *Secondly.* That no part of the regulations, which have been cited, is to be construed, as authorizing the confinement of the person of any disqualified landholder, under the jurisdiction of the court of wards, or the joint proprietors of an estate committed to the charge of a manager appointed by the officers of Government;† nor as empowering the collectors to take any female proprietor of land into custody; or to require her personal attendance, under any pretext whatever. *Thirdly.* Arrears of tuccavy, or any money advanced by Government to proprietors or farmers of land, for making or repair-

Reg. 14, 1793, Sec. 47. Reg. 6, 1795, Sec. 52. Reg. 37, 1793, S. C. 49. Stated rules respecting collectors applicable to the assistants and to any persons appointed to officiate as collectors.

Reg. 14, 1793, S. C. 47. Reg. 6, 1795, Sec. 52. K. 27, 1803, S. C. 50. Restrictions against confinement of any disqualified landholder, or joint proprietor of an estate in charge of a public manager. Also against custody, or requisition for personal attendance, of any female proprietor.

Reg. 14, 1793, Sec. 40. Reg.

* In an appeal before the court of Sudder Dewanny Adawlut on the 27th April 1803, (D'Silva plaintiff, versus collector of Dacca) it was determined that a decree passed in a zillah court, without the reference to Government prescribed by Section 46, Regulation 14, 1793, and consequently without the permission of the Governor General in Council to try the suit, although the nature of the case, which respected a public sale, evidently required it, was null and could not be enforced against Government. Under Section 3, Regulation 2, 1814, cited in page 423, the reference must now be made to the Board of Revenue, or Board of Commissioners.

† This provision has been virtually superseded in the lower provinces by Regulation 17, 1805, cited in page 219.

1793, Sec. 48.
Reg. 27, 18-3,
S c 43
Arrears of Suez-
can, and other
advances to
landholders and
farmers, reco-
verable by the
same process,
as p e cited for
arrears of reve-
nue.

ing embankments, reservoirs, or water-courses, or other improve-
ments to their estates or farms, are to be recovered by the same
process, as is prescribed for exacting payment of arrears of reve-
nue; and under the same rules and restrictions, as far as they
may be applicable.

Concluding re-
marks, on ef-
ficiency of the
present rules
for realizing
the land-reve-
nue, cited
from fil h re-
port of select
committee of
the House of
Commons,
dated 28 h
July 1812.

I SHALL conclude this division of my work, on the *collection of the land-revenue*, with the following quotation from the report of a select committee of the House of Commons already referred to. After noticing the experienced evil and imperfections intended to be remedied by the provisions of Regulation 7, 1799, and the object of those provisions, to supply ascertained defects in the existing system, “by rendering the means allowed the landholders more brief and efficient than they before were, for realizing their rents, and by postponing the sale of their lands, for the realization of arrears of the public revenue, until the close of the current year;” as well as by strengthening the power of the collectors over defaulting landholders, and farmers; it is observed that these amendments of the original rules “are acknowledged to have proved highly salutary; and if the operation of them may be judged of from the improved state into which the affairs of the revenue department have subsequently been brought, their efficacy for the purposes proposed must be fully admitted. It appears from the correspondence with India, since the introduction of the improvements in question, that the balance outstanding at the close of each succeeding year, down to the latest advices, has greatly diminished; and the ultimate balances, part of which are still recoverable, have become less than one-half per cent upon the whole amount of the public assessment. The exposure of land for sale, for the recovery of arrears, has of course been in proportion less frequent; and it seems reasonable to infer that the value of land has risen in consequence of its coming less abundantly to market for sale. These are incontestible proofs of the regularity with which the different parts of the revenue system are, at length, become adjusted; and of the ability of the
country

country to produce the amount of revenue which was assessed upon it under the permanent settlement.”*

6. EMBANKMENTS, RESERVOIRS, AND WATER-COURSES,

IMMEDIATELY connected with the security and collection of the land revenue, as well as of the private rents of land, is the seasonable repair of embankments constructed on the sides of the large rivers, and other rivers in which the water rises to a considerable height in the rains, to prevent inundation. Although the landholders and farmers, with whom a settlement has been concluded, by a clause in their engagements, have been generally made answerable for the repair of embankments within the limits of their estates, or farms, this responsibility has never been understood to include certain embankments, which (to use the terms of the preamble to Regulation 33, 1793,) “have been considered as public works, and have been kept in repair at the expense of Government, in consequence of their great extent, and the damage to which the districts and places, for the protection of which they have been constructed, would be liable from inundation, in the event of their not receiving the necessary annual repairs.” The importance of providing for the due repair of the public embankments referred to induced the Governor General in Council to pass a regulation on the subject, under date the 11th February 1791,† the rules contained in which, with amendments, were subsequently enacted in Regulation 33, 1793, for the lower provinces; extended to Benares by Regulation 16, 1795; and re-enacted for the upper provinces by Regulation 44, 1803. By these rules, the repair of embankments, maintained at the expense of Government, was placed under the superintendence

Certain embankments constructed on sides of rivers, to prevent inundation, considered to be public works; and kept in repair at the expense of Government.

Rules for the repair of such embankments, passed in February 1791, enacted with amendments in Reg. 33, 1793; extended to Benares by Reg. 16, 1795; and re-enacted for upper provinces by Reg. 44, 1803.

* Report of select committee of the House of Commons, on India affairs, 28th July 1812. Page 163.

† See COLF BROOKE'S Digest, vol. 3, page 500.

Superintendence of collectors, provided for by these rules, revoked; and new rules established by Reg. 6, 1806.

Section 2
The general charge of embankments entrusted to committees, as may be determined by Government.

Section 4
The senior servant of the Company at each station shall be president, and the register of the zillah court shall be secretary to the committee.

Section 5
The committee shall furnish an annual estimate of the expense required for repairing the embankments.

Such estimates shall be prepared in the first instance by the collectors for the consideration of the committees.

of the collectors, subject to the control of the Board of Revenue. But it was afterwards judged expedient that this duty should be performed under the direction of such officers as from local situation might possess the best means of forming a judgment of the repairs required; and of the execution of them by the persons entrusted with this service. Such parts of the regulations above noticed, as committed the public embankments to the exclusive charge of the collectors and Board of Revenue, were therefore rescinded by Section 2, Regulation 6, 1806; and the following rules, which are still in force, were substituted, for all the provinces, by that regulation. § 3. "The general charge of the embankments maintained in the different zillahs at the expense of Government, and the superintendence of the repairs of such embankments, shall be entrusted to committees, consisting of the magistrate, the collector of the land revenue, the commercial residents, and generally of such other public officers residing in the zillahs in which the said embankments are situated, as the Governor General in Council shall think proper to nominate, for the performance of that duty." § 4. "The senior servant of the Company at each station shall be president of the committee; and the register attached to the court of the zillah, in which such committee may be appointed, shall be ex-officio secretary to the committee." § 5. *First.* "It shall be the duty of the committees to furnish the Governor General in Council, as soon after the expiration of the rains in each year as may be practicable, with estimates of the expense, which may be required for the repair of the embankments maintained by Government in the ensuing year." *Second.* "To expedite and facilitate the duty prescribed in the preceding clause, the collectors of the land revenue, in those districts in which committees may be established, shall prepare, for the consideration of the committees, estimates of the expense which may be required for the repair of the embankments in the ensuing season, accompanied with such information from the officers employed in the performance of that duty, or from other persons, as the collectors may deem necessary, to enable the committees

committees to judge of the propriety of the estimates prepared by them." *Third.* "In preparing the estimates mentioned in the preceding clause, the collector shall be at liberty to require the assistance of any person employed, with the sanction of Government, in the execution of the repair of the embankments; whether such person shall be an engineer officer or otherwise; and also the assistance of any of the subordinate officers employed under such person in the repair of the embankments." *Fourth.* "When the estimates shall have been so prepared, a meeting of the committee shall be summoned, under the signature of the secretary, at the station of the magistrate and collector, for the purpose of taking the estimates into consideration; together with any other points connected with the duty entrusted to them by this regulation, which may be proposed by any member of the committee; and such meeting shall not on any account be postponed beyond the expiration of the month of December in each year." *Fifth.* "When the estimates shall have been approved by the committee, they shall be forwarded to the secretary to Government in the revenue department, for the consideration of the Governor General in Council, accompanied with any suggestions which may appear to the committee to be necessary or proper, with the view of preserving the embankments in an efficient and complete state of repair." *Sixth.* "Should any member be unable to attend the annual meeting of the committee, he shall state the reasons of his absence to the secretary to the committee, and the committee shall forward a copy of the letter of such absentee to the Governor General in Council, together with their report upon the estimate, for his information." § 6. "It shall likewise be the duty of the collectors, aided by the officers, both European and Native, who may be employed in the execution of the repair of the embankments, to prepare the accounts of the actual expense incurred in each year; unless it should appear to the Governor General in Council to be preferable, in any instance, to commit this duty to any other member of the committee; in which case the annual accounts, and the annual estimates

mentioned

In preparing the estimates, the collectors are at liberty to require the assistance of any person employed in the execution of the repairs.

A meeting of the committee shall be held for taking the estimates into consideration at the station of the magistrate and collector, and such meeting shall not be postponed beyond the end of December in each year.

The estimates, when approved shall be forwarded to Government, with any suggestions the committee may deem proper.

Members unable to attend the annual meeting shall state the reasons, which shall be forwarded to Government by the committee.

Section 6
The collectors shall also prepare the accounts of the expense incurred, unless in cases wherein Government may commit that duty, and the preparation of the annual estimates to any other officer.

mentioned in Section 5, of this regulation, shall be prepared by such person as the Governor General in Council may direct."

§ 7. "The accounts shall be taken into consideration by the committee, either at the annual meeting above prescribed, or at a special meeting convened for that purpose, or in circulation, as may be most convenient." § 8. "As soon as the accounts of the actual expenditure in each year shall have received the approbation of the committee, they shall be forwarded to the civil auditor; who will submit them; with any observations which he may deem necessary, to the Governor General in Council, for his final orders." § 9. "In those parts of the country in which it may not be convenient to appoint committees, in consequence of the distance of the residence of most of the public officers from the situation of the embankments, (as for instance at Tumlook and Hidgelec,) the duty entrusted by Sections 5 and 6, of this regulation to the collectors shall be performed by the salt agents, or by such other persons as the Governor General in Council may direct; and the general charge of the embankments shall be committed to the Board of Revenue, who shall conform, as nearly as local situation and other circumstances will permit, in the performance of that duty, to the rules above prescribed for the conduct of the several committees." § 10. "Previously to the annual meeting ordered to be holden in clause fourth of Section 5, of this regulation, a deputation shall be made, of one or more members of the committee, at each station, for the purpose of examining in person the state of the embankments; and such member or members shall communicate to the general meeting such observations as may have occurred to him, or them, respecting the actual state of the embankments; and any suggestions which may appear to be necessary for the purpose of preserving the embankments in an efficient state of repair. Those reports shall be regularly forwarded to the Governor General in Council, together with the estimate of the expense required for the repair of the embankments in each successive year." § 11. "The committees in the several zillahs shall be vested with a general control over the em-

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Section 7.
The accounts shall be taken into consideration by the committee at the annual meeting, or otherwise, as may be convenient.

Section 8.
The accounts when approved by the committee, shall be forwarded to the civil auditor, who will submit them to the Governor General in Council.

Section 9.
In cases in which it may not be convenient to appoint committees in the country entrusted to the collectors in Section 5 and 6, shall be performed by such other persons as the Governor General in Council may direct, subject to the general supervision of the Board of Revenue, who shall conform as nearly as circumstances may permit, to the rules prescribed for the committees.

Section 10.
An annual deputation shall be made for the purpose of examining in person the state of the embankments.

Section 11.
The committees shall be vested with a general control over the em-

the embankments which are repaired at the expense of the zemindars and farmers, as well as those which are maintained by the Government. By this rule, it is not intended to interfere with the zemindars and farmers in the repair of the embankments situated in the lands held by them, so long as that duty shall be effectually and properly performed. The committees shall however be at liberty, whenever they may deem it necessary, to call upon any zemindar or farmer, either by a perwannah from themselves, or through the collector, as may be deemed preferable, to make such repairs to the embankments situated in the lands of such zemindar or farmer, as may be required. Should any zemindar or farmer, after the receipt of such perwannah, neglect to make the necessary repairs, the committee shall submit to government an estimate of the expense required for that purpose; and the repairs shall in all such cases be made by the officers of government; and the expense recovered from the zemindar or farmer who was bound to keep the embankments in a proper state of repair. Provided however, that in all such cases, the accounts of the actual expenditure shall be forwarded, through the channel of the civil auditor, to the Governor General in Council for his sanction, previously to the amount being charged to the account of the zemindar or farmer." § 12. *First.* "Material injury and inconvenience having been sustained from the abuse of the powers exercised by the holders and cultivators of land, in making cuts and water courses through the embankments; the following rules have been established for general observance with respect to that point." *Second.* "With the view of preventing, as far as may be practicable, the necessity of making cuts in the embankments, sluices of masonry shall be constructed at those places at which water courses may be deemed more particularly necessary. The several committees will accordingly report, whenever they may be of opinion that such sluices are absolutely necessary for the purpose of improving the cultivation of the country, and obviating the inconvenience and expense arising from making temporary water courses at such places." *Third.* "Whenever such

bankments repaired by the zemindars and farmers, and how such control is to be exercised.

Section 12.
Rules established for making cuts and water courses through the embankments.

The committees shall report when they may be of opinion that sluices of masonry are necessary.

Such sluices shall be only opened

by the officer in charge of the embankments, under the direction of the committee or other officer superintending the repairs.

Landholders shall apply to the darogah when desirous of having a water course made through any part of an embankment, and such application shall be presented to the person ending licence for the committee.

What the committees, or other officers, are to consider in deciding upon such applications.

Persons guilty of a breach of the foregoing rules, liable to criminal prosecution.

Such persons likewise liable to be prosecuted in the civil court for damages.

Section 13 of the foregoing rules applicable to the embankments repaired by the zemindars, &c. with certain modifications.

sluices may be constructed, they shall be opened only by the darogah or other native officer in immediate charge of the embankments, under such orders as the darogah, or other officer, may receive from the committee, or from the person entrusted with the immediate superintendence of the repairs." *Fourth.* "Whenever the holders or cultivators of land may be desirous that a water course should be made through any part of the embankments where sluices are not constructed, they shall state the circumstance to the darogah; who will communicate the application to the person vested with the superintendence of the repair of the embankments; and that officer will pass such orders on the subject as may appear to him to be proper; applying, whenever he may deem it necessary, to the committee, for their instructions on the subject." *Fifth.* "In deciding upon applications of that nature, the committees and officers acting under their authority, will particularly consider, not only the advantage which such persons may derive from opening the embankments, but likewise the injury which the lands of other persons may eventually sustain from that cause; and will order the embankment to be opened, or not, according as may appear to be most conducive to the general interests and prosperity of the country." *Sixth.* "Should any person be guilty of the offence of making cuts through any of the embankments maintained at the expense of Government, in any other manner than that prescribed in the two preceding clauses, he shall be liable to be prosecuted criminally before the magistrate for such misdemeanor; who will decide on the case, or refer it to the court of circuit, according to the extent of the injury done by the offender, and the punishment to which the magistrate may consider him to be liable." *Seventh.* "Any person, so offending, will likewise be liable to be prosecuted in the civil court for damages, by any person or persons, who may have sustained any loss or injury from the improper opening of the embankments." § 13. "The rules contained in the foregoing section are to be considered applicable to the embankments repaired by the zemindars and farmers; with this difference, that when any person may be desirous that water courses should be made through

through any part of such embankments, they are to apply to the zemindar or farmer, or to the officers employed by him in superintending the repair of the embankments; who will decide on the application, in conformity to the principle above stated; provided however, that any persons who may be dissatisfied with the decision of the zemindar or farmer, or of his officers, shall be at liberty to submit a further application to the committee, who will pass such orders on the subject as may appear to be just and reasonable. Any persons infringing this rule will be subject to the penalties stated in clause sixth of the preceding section, and to a civil action for damages, at the suit of any individual, as above mentioned."

WITH a view to encourage proprietors and farmers of land, and their tenants, to secure and extend the cultivation of the lands composing their respecting tenures, by keeping in repair and enlarging the existing embankments, reservoirs, and water-courses, or constructing new works of this nature, where required, the following provisions were enacted in Regulation 33, 1793; extended to Benares, (with a modification, directing security for the repayment of advances to be taken from proprietors, as well as farmers) by Regulation 46, 1795, and re-enacted (with the same modification) for the upper provinces, by Regulation 44, 1803.

§ 8. "Advances shall be made to proprietors or farmers of land, or dependant talookdars, or under farmers, or ryots, for the purpose of repairing or making embankments; or repairing, enlarging, or making tanks, reservoirs, or water-courses; under the conditions specified in the following sections." § 9. "The applications for such advances are to be made in writing to the collector of the zillah; and are to specify the nature and extent of the work for which they are required; the period by which it will be completed; and the amount of the advance solicited. If a person, applying for advances, shall not be the proprietor of the lands for the benefit of which the works are to be made, (*or in Benares and the upper provinces, whether the persons making the application be proprietors of the lands or not,*) he is to give security for

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For her provisions in Regulation 33, 1793; extended to Benares by Regulation 46, 1795, and re-enacted for the upper Provinces, by Regulation 44, 1803, for encouraging landholders and farmers, and their tenants to repair and enlarge existing embankments, reservoirs, and water courses, or construct new works of this nature, where required.

Section 8.
Advances to be issued to individuals for repairs or making embankments, reservoirs, or water courses.

Section 9.
Applications for such advances to whom to be made, and what to contain.

What persons applying for advances to give security.

the repayment of the advance with interest; and also for the payment of the penalty to be exacted in the cases mentioned in Section 10; and shall specify in his application the security he may have to offer." *In the lower provinces*, "if the person making application be the proprietor of the lands, for the benefit of which the works are intended, he is not to be required to give security; but his lands are to be held responsible for the repayment of the advance, with interest; and for the eventual discharge of the penalty." § 10. "Persons receiving advances, and their sureties, are to bind themselves to repay the amount at such period, or periods, as may be agreed upon between them and the collector, with interest at the rate of twelve per cent per annum; and also to pay a penalty of twenty-five per cent on the amount advanced, in the event of the works not being completed by the stipulated period; or of the money not being applied to the purpose for which it may have been advanced." § 11. "The collectors, upon the receipt of such written applications, are to forward them without delay to the Board of Revenue, (or Board of Commissioners) with any remarks which they may have to offer respecting them. The Board of Revenue, or Board of Commissioners, provided there shall appear to them no objection to the execution of the work proposed, and (in cases in which security is directed to be taken) they shall be satisfied of the sufficiency of the security offered for the repayment of the required advance with interest, and for the discharge of the penalty in the cases mentioned in the preceding section, are empowered to authorize the collector to make the required advance, upon the person applying for it, and his surety, executing the prescribed engagements." § 12. "Upon the arrival of the period by which such works may have been stipulated to be completed, the collector is to direct the tehseldar, or other officer of Government upon the spot, or such person as he may deem it proper to appoint, to survey the works, and to report in what manner they have been executed; and in the event of their not having been completed according to the engagement, and by the stipulated period, or of the money not hav-

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Section 10.
Engagement to
be executed by
persons receiv-
ing advances,
and their sure-
ties.

Section 11.
Collector how
to proceed with
such applica-
tions.

Board of Revenue and Board
of Commissioners
empowered
to comply
with them.

Section 12.
Survey and re-
port of the
works to be
made, and sent
to the collectors,
who are empow-
ered to levy the
penalty, in the
cases herein
specified.

ing been applied to the purpose for which it may have been advanced, he is to levy the penalty above directed; sending immediate information to the Board of Revenue, or Board of Commissioners, of the exaction of it." § 13. "The collectors are to transmit to the Board of Revenue, and Board of Commissioners, at such periods, and in such form as they may direct, reports on the execution of the works for which advances may be made under this regulation." § 14. "The Board of Revenue, and Board of Commissioners, are empowered to receive applications for such advances in the first instance; and provided there shall appear to them no objection to the work proposed to be executed, and the person making the application shall give the required security, and execute the prescribed deeds, to order the collector of the zillah to comply with it." § 15. "If a work, for which advances may be made under this regulation, shall not be completed by the stipulated period, and the person who may have received the advances can show good cause to the satisfaction of the collector for not having finished it, he is to report the circumstances to the Board of Revenue, or Board of Commissioners, who are empowered to allow such further time for the completion of the work, as they may judge proper."

Section 13.
Report to be made by the collector of exaction of works.

Section 14.
Board of Revenue, and Board of Commissioners, empowered to receive applications for advances and to order them to be complied with.

Section 15.
Cases in which the Board of Revenue and Board of Commissioners may extend the period fixed for completing works.

7. DIVISION AND UNION OF ESTATES WITH PROVISIONS FOR JOINT ESTATES.

UNDER the original rules for the permanent settlement of the lower provinces, as well as under the provisions of Regulation 17, 1805, "for modifying the rules contained in Regulation 8, 1793, respecting the management of joint undivided estates,"* the proprietors of all such estates, when not disqualified and within the jurisdiction of the court of wards, were held jointly and severally answerable for the public revenue assessed

Proprietors of joint undivided estates held jointly and severally answerable for the public revenue assessed on them.

* These rules have been already cited at length under the head of *assessment of Bengal, Bihar, and Orissa*. Page 219.

upon them. The same principle is established in the upper provinces, and also in Benares, with an exception to the inferior putteedars, referred to in the first Clause of Section 17, Regulation 2, 1795.* It is therefore of great importance to individuals who succeed by inheritance to portions of estates, or who purchase by private or public sale, or otherwise become entitled to, any part of a joint undivided estate, that they should be able to obtain, without much delay or expense, a division and separate assessment, of the landed property appertaining to them; which can never be secure, whilst from being held with other lands in joint tenancy it is liable to be excluded from the owner's personal management, and to be sold for an arrear of revenue due from his coparceners. At the same time it is of essential consequence to the public interests, that no sub-division of the fixed revenue, assessed upon a joint estate, should be permanently and exclusively allotted to portions of it, without great care and circumspection, in ascertaining that the allotment is proportionate to the assets. If not, one part of an estate may become over-assessed, whilst the other is unduly exonerated; and the ultimate consequence may be a perpetual loss of revenue, from actual inability in the land upon which it is assessed to produce the annual amount. These considerations have induced particular attention to the rules for a partition of joint-estates; and have occasioned several additions and amendments to the original rules enacted by Regulation 25, 1793; the preamble to which states the following reasons for the provisions contained in that regulation. "In dividing landed property, paying revenue to Government, into two or more distinct estates, the share or shares comprised in each estate should be rendered as compact as circumstances may admit, in order to obviate the disputes regarding boundaries, water, and other matters, which necessarily result where the lands belonging to different estates circumscribe each other, or are intermixed; and which, by obstructing the cultivation, and consequently depreciating the value of the property, are equally preju-

Consequent importance to proprietors of shares in joint estates that they should be able to obtain a partition and distinct allotment, without much delay, or expense.

Necessary, at the same time, for the public interests, that no allotment of the revenue should take place without ascertaining that it is proportionate to the assets.

Attention given in consequence, to rules for partition of joint estates. Additions and amendments to original rules contained in Regulation 25, 1793.

Preamble to that Regulation.

* Quoted under the head of *assessment of Benares*, page 282. See also Sec. 10, Reg. 27, 1795; cited in page 293.

dicial to the interests of the proprietors, and to those of the public. Justice to the sharers, and the security of the resources of the state, require likewise that the fixed public revenue should be apportioned on each of the estates into which the property may be divided, agreeably to the rules prescribed in Regulation 1, 1793. For this purpose, the officers of Government, appointed to make the division, must have access to the accounts of the gross collections from the property to be divided. The proprietors can have no well founded objection to the production of these accounts; it being specified in the proclamation contained in Regulation 1, 1793, by which the decennial settlement was declared permanent, that Government reserved to itself the power of passing such regulations for ascertaining the actual produce of lands ordered to be divided, as might be deemed expedient; and the limitation of the demand upon each estate, in perpetuity, precluding proprietors from being subjected to the payment of any increase of revenue, whatever may be the excess of their receipts from their estates, above the assessment which they may have engaged to pay annually to Government. It is also necessary for the convenience of the proprietors of two or more estates, that may have originally formed specific and ascertained proportions of the same zemindary, talook, or chowdrai, and for preventing the divisions of landed property becoming too numerous and minute, that the proprietors of such estates should be allowed to unite them into one estate." The rules founded on the above considerations, which were originally enacted for the lower provinces by Regulation 25, 1793, were extended to Benares (with a few formal variations only) by Regulation 26, 1795; and re-enacted for the upper provinces by Regulation 26, 1803, with the amendments previously made in the rules for the lower provinces, and Benares, by Sections 12, and 13, of Regulation 1, 1801. Provisions "for restricting the partition of small estates paying revenue to Government" were afterwards enacted, for all the provinces, in Regulation 6, 1807; but these restrictions being found productive "of considerable injury to numbers of sharers in small estates;

Provisions of
Reg. 25, 1793,
extended to Be-
nares by Reg.
26, 1795; and
re-enacted for
upper provin-
ces by Reg. 26,
1803, which also
included amend-
ments in Sec-
tions 12 and 13
of Regulation 1,
1801.
Restrictions on
partition of
small estates in

Regulation 19, 1814. § 3. "The division of every zemindarry, independent talook, or other estate paying revenue immediately to government, which may be ordered to be divided into two or more distinct estates, and the apportioning of the fixed jumma of the whole of the estate on the several shares, are to be executed under the superintendence of the collector of the district, in which the estate may be situated." § 4. *First*. "If all the proprietors of a joint undivided estate shall be desirous to have their estate divided into two or more separate estates, they are to make a written application for that purpose to the collector of the district, under their seals and signatures, and attested by four credible witnesses, specifying the shares which belong to them respectively, and whether they are desirous of having separate possession of their respective shares, or whether any two or more of them propose to hold their shares as a joint estate. On receipt of the written application above noticed, the collector shall proceed to divide the estate into the number of shares requested, reporting the same to the Board of Revenue or Board of Commissioners, as the case may happen to be within the controul of the one or the other of those Boards. All authorized expenses incurred in making the division are to be borne by the proprietors, in the proportion which the jumma of their respective shares, after the division has been completed, may bear to the jumma of the whole estate." *Second*. "If one, two, or more of the proprietors of a joint estate, held in common tenancy, shall be desirous to have separate possession of his or their respective share or shares, or if two or more of them shall be desirous to have their shares separated and to hold them as a joint estate, they are to make a written application for that purpose to the collector, under their seals and signatures, and attested by four credible witnesses. The collector, on receipt of the application, shall publish an advertisement, notifying the same to all parties concerned, and specifying that he shall proceed to make the division applied for in fifteen days from the date of the publication of the advertisement, unless any person or persons in possession of the estate

Section 3.
Division of es-
tates to be
made by the
collector.

Section 4.
Proprietors of
a joint estate
entitled to have
a division of it
at their own
expense.

One, two, or
more proprietors
of a joint estate
entitled to have
their shares se-
parated; but
collectors not to
proceed to a
division, should
any of the par-
ties in possession
object to the
right of the
claimants to a
separation, un-
til the claim
shall be esta-
blished in a
court of justice.

to the collector, under their seals and signatures, and attested by four credible witnesses, specifying the shares which belong to them respectively, and whether they are desirous of having separate possession of their respective shares, or whether any two or more of them propose to hold their shares as a joint estate. On receipt of the written application above notified, the collector shall proceed to divide the estate into the number of shares requested, reporting the same to the Board of Revenue or Board of Commissioners, or the one may happen to be within the control of the one or the other of those Boards. All authorized expenses incurred in making the division are to be borne by the proprietors, in the proportion which the jumma of their respective shares, after the division has been completed, may bear to the jumma of the whole estate." *Second.* "If one, two, or more of the proprietors of a joint estate, held in common tenancy, shall be desirous to have separate possession of his or their respective share or shares, or if two or more of them shall be desirous to have their shares as a joint estate, and to hold them as a joint estate, they are to make a written application for that purpose to the collector, under their seals and signatures, and attested by four credible witnesses. The collector, on receipt of the application, shall publish an advertisement, notifying the same to all parties concerned, and specifying that he shall proceed to make the division for in fifteen days from the date of the publication of the advertisement, unless any person or persons in possession of the estate

Division of
States to be
made by the
collective.

Section 4 of the
Provisions of
a joint estate
entitled to make
a division of it
at their own
expense.

One, two, or more proprietors of a joint estate entitled to have their shares separated; but collectors not to proceed to a division, should any of the parties in possession object to the right of the claimant to a separation, until all the others shall be lawfully called into court of justice.

er any part thereof, shall before the expiration of that time deny, by a writing under his or their seals and signatures, and attested by two credible witnesses, the right of such claimant or claimants to the share or shares so claimed by him or them, in which case the collector is not to proceed to the division until the disputed title be established in a court of justice, or admitted by the party or parties so disputing it, by a writing to that effect under his or their seals and signatures, and attested by four credible witnesses." *Third.* "In the event of no denial being offered to the claim for separation in the form stated, and within the period limited in the foregoing clause, the collector shall proceed to make the division applied for in the mode hereafter described, reporting the same for the information of the Board of Revenue or Board of Commissioners as the case may be; and all authorized expenses incurred in making the division are to be borne by the proprietors at large, in the proportions which the jumma of their respective shares, after the division has been completed, shall bear to the jumma of the whole estate. This last rule however is not to be understood to preclude the parties concerned from entering into a private adjustment among themselves, of the proportions in which such expenses shall be severally borne by them; and whenever the whole amount demandable on that account shall be tendered to the collector by one, or more of the parties, he shall receive the same accordingly; and on the contrary if the amount be not so tendered, he is to enforce the rule as above laid down, and is to levy the amount (if it be not paid) by the same process against the sharer or sharers failing in the payment of their proportions, as is prescribed for levying arrears of revenue." *Fourth.* "The whole of the provisions of this section, for the division of estates held in common tenancy, are to be considered equally applicable to the separation of portions of estates consisting of distinct meahuls." § 5. "Whenever the courts of justice may pass a decree awarding to any person the proprietary right in a portion of an estate paying revenue to government (whether fractional or consisting of specific lands) and may issue a precept to the collec-

Collector is not to proceed when no objection is made.

The foregoing provisions in the division of estates, shall not apply to meahuls.

Section 5.
Courts of justice in enforcing payment of the expenses of divisions in decrees awarding the proprietary right in disputed estates.

tor requiring him to divide the estate, and (provided it be not held khas, or let in farm by government) to put the parties in possession of the shares, to which they may be entitled under the decree, they shall make it a general rule to direct at the same time that the party or parties, who may have withheld the right so decreed, shall defray the whole of the expense which may be incurred in the subsequent process of dividing, separating, and giving possession of, and apportioning the public revenue on the portion of the estate or lands so decreed. Provided however, that if any special reasons shall appear for a deviation from this general rule, the courts shall be at liberty to direct the expense in question to be defrayed by all, or any of the parties to the decree, in such proportions as the court passing the decree may, from a consideration of the particular circumstances of the case, deem equitable. Copies of all orders which the courts may pass under this section are invariably to be transmitted to the collector for his guidance, together with the precept which the court may issue to him, requiring him to divide the estate, and to put the parties in possession of the shares to which they may be entitled under the decree.

§ 6. "If two or more estates that may have originally formed specific and ascertained portions of the same zemindarry, talook, or chowdraz, shall come into the possession of one person, or if one, two, or more persons shall possess two or more shares of any such estate, such person or persons shall be entitled to have such shares united, and to hold them as one estate. Application for the union of estates is to be made to the collector of the zillah in writing, under the seal and signature of the proprietor or proprietors, and attested by two credible witnesses; and the collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his office, reporting the circumstance to the Board to which the case may appertain." § 7. "When a division of an estate shall be ordered to be made, each of the portions, into which the property shall be directed to be divided, shall be formed of entire, and (as far as the situation of the lands and other local circumstances may admit)

Section 6.
Two or more
estates which
originally formed
part of the
same zemindarry,
&c. may be
united and re-
gistered as one
estate.

Section 9.
Each estate to
be as compact as
possible.

mit) contiguous mehals or villages, so that each estate may be as compact as possible. Provided that if the property, so ordered to be divided, shall not consist of a sufficient number of villages to admit of one or more whole village or villages being included in each estate, the division of the village or villages, of which the property may consist, is to be made so as to render each estate as compact as possible." § 8. "The public revenue shall be assessed on each estate into which the property shall be ordered to be divided in conformity with the rules prescribed in Regulation 1, 1793, with respect to estates situated in the provinces of Bengal, Behar, and Orissa; Regulation 22, 1793, in the province of Benares; Regulation 25, 1803, in the ceded provinces; Regulation 9, 1805, in the conquered provinces; and with Regulation 12, 1805, in the province of Cuttack;* but in selecting the mehals or villages,

to

Section 8.
Public revenue
to be assessed
upon each estate
agreeably to
the rules herein
prescribed.

Rules for select-
ing the lands to

* The rules, which are here referred to, have been stated under the head of *Assessment*, of the respective provinces. The general rule prescribed for the allotment of the public assessment upon a division of estates, in proportion to the actual produce, as explained in Section 8, Regulation 1, 1801, for the lower provinces and Benares, and as originally established for the upper provinces, by Section 37, Regulation 25, 1803, and Section 27, Regulation 9, 1805, has also been specifically mentioned in treating of the public sales of land, under the head of *collection of the land revenue*. (Page 398) With a view to guard against a reduction of the fixed assessment, by fraudulent or improvident leases, or agreements of whatever description, between the landholders and their tenants, it was provided in Section 3, Regulation 44, 1793, for the lower provinces, that "where a division of a joint estate shall be made at the request of the proprietors, or pursuant to a decree of a court of justice, the fixed public revenue, assessed upon the estate, shall be apportioned on the several shares, agreeably to the principles prescribed in Section 10, Regulation 1, 1793; without regard to any engagements that may subsist between the proprietors and their dependent talookdars", (excepting the talookdars, who were exempted from any increase of rent at the time of forming the decennial settlement by Section 51, Regulation 8, 1793,) "under farmers, or ryots. But the sharers shall not demand from the dependent talookdars, under farmers or ryots, in their respective shares, any sum beyond the amount specified in the engagement, lease, or pottah, which may have been entered into between them, and the proprietors jointly, previous to the division of the estate; provided that such engagement, lease, or pottah, be not repugnant to the rules prescribed in Section 2; and such dependent talookdars, under farmers, or ryots, shall duly perform their part of it: but it shall remain in full force (excepting in the event of the lands being disposed of at public sale, for the discharge of arrears of the public assessment,) until the term of it shall have expired." A similar provision was included in Section 3, Regulation 50, 1795, for the province of Benares;

to be included in each separate estate, the advantages or disadvantages arising from situation, the vicinity of roads or navigable rivers, the nature and quality of the soil and produce, the quantity of waste land, the depth at which water may be procurable, the number of tanks, the state of the embankments and water courses, and every other local circumstance affecting the present, or likely to influence the future value of the lands, are to be duly considered, and the meahuls or villages to be included in each estate, fairly and impartially selected accordingly." § 9. "If a dwelling house belonging to one sharer shall be situated in a mehaul or village, which may be included in the estate of another, the proprietor of such house shall be at li-

be included in each estate.

Section 9.
The dwelling house, &c. of one sharer to be retained by him, although situated

Benares; and in Section 3, Regulation 47, 1803, for the ceded provinces, extended to the conquered provinces by Section 29, Regulation 8, 1805. The two sections first mentioned, of Regulations 44, 1793, and 50, 1795, have been since rescinded by the first clause of Regulation 18, 1812, in consequence of the new enactments respecting leases, in the lower provinces and Benares, which will be noticed in the fourth part of this Analysis. But the second clause of the same section includes a repetition in substance of the provision above quoted, in the following terms. "When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a court of justice, the fixed public revenue, assessed upon the whole estate, shall be apportioned on the several shares, agreeably to the principles prescribed in Section 10, Regulation 1, 1793, and Section 7, Regulation 27, 1795; without regard to any engagements that may subsist between the proprietors and their dependant talookdars (excepting the dependent talookdars described in Section 7, Regulation 44, 1793,) under farmers, or ryots. But all leases made in conformity to Sections 2 and 3, Regulation 5, 1812, and Section 2, of this regulation, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift, or otherwise." The latter part of this clause has been already cited in a note to page 416, with a corresponding rule, in Section 4, Regulation 14, 1812, for the ceded and conquered provinces, (including Cuttack;) and both are undoubtedly still in force, under the provisions of Regulation 19, 1814. Nor has this regulation expressly rescinded any part of the second clause of Section 3, Regulation 18, 1812, or of the corresponding provision for the ceded and conquered provinces in Section 3, Regulation 47, 1803, recognized, as remaining in force, by Section 4, Regulation 14, 1812. But the principle of apportioning the public assessment to the actual rent-produce of a landed estate, without regard to subsisting engagements between the landholder and his undertenants, whilst such engagements are at the sametime left in force, however necessary to be maintained as a precaution against fraud in particular cases, being obviously difficult and embarrassing in practise, it has perhaps been intentionally omitted, as an ordinary rule for the partition of estates, in Regulation 19, 1814.

and in the share
of another on
payment of rent.

Section 10.
Rules with refer-
ence to tanks,
on canals, &c.

Section 11.
And places of
religious wor-
ship.

Section 12.
Division of an
estate to be
made by an au-
meen to be ap-
pointed by the
collector, and
paid by a per
centage on the
juzma.

Section 13.
Oath to be tak-
en by the au-
meen.

erty to retain it, with the offices, buildings, and ground immedi-
ately attached to it, upon paying to the proprietor of the mehaul
or village an equitable rent for the ground; and the limits of the
ground, and the rent to be paid for it, shall be particularized in
the paper of partition. § 10. "Tanks, reservoirs, water
courses, and embankments, shall be considered as attached to the
land for the benefit of which they were originally made. In cases
in which from the extent, situation, or construction of works of this
nature, it shall be found necessary to continue them the joint pro-
perty of the proprietors of two or more of the estates, the paper
of partition is to specify, as far as circumstances may admit, the
proportion of the benefit which each estate is entitled to derive
therefrom, and of the expense of the repairs with which it is to be
charged." § 11. "Places of worship that may have been
held in common previous to the division of a zemindarry or
other estate, shall be continued on the same footing, unless the
parties shall otherwise agree amongst themselves; in which case
they are to signify their determination in writing to the aumeen,
who shall insert it in the paper of partition." § 12. "When
an estate shall be ordered to be divided, the collector shall ap-
point a creditable aumeen to make the division, who shall receive
a per centage (as hereafter specified) on the amount of the jum-
ma of the whole estate, as a remuneration for his trouble and the
expense of establishment." § 13. *First.* The collector is em-
powered and directed to administer the following oath to the au-
meen previous to his proceeding to make the division:—"I
"A. B. appointed to make the division of the estate of ———
"———— in the zillah of ———— solemnly
"swear, that I will fairly and impartially, and as expeditiously as
"may be practicable, make the division of the property, and ap-
"portion the public revenue upon each distinct estate into which
"it is directed to be divided, to the best of my knowledge and
"judgment, according to the regulations passed by the Governor
"General in Council; that I will not directly or indirectly re-
"ceive or allow any other person to receive any fee, present, or
"reward

“reward whatever, from any of the sharers or any persons on their behalf, on account of the division or any matter connected therewith; that I will not derive any advantage or emolument from my appointment, excepting such as may be expressly allowed to me, and be authorized by the regulations; and that I will deliver to the collector all such papers and accounts as may come into my possession respecting the estate which I am appointed to divide.” *Second.* If the aumeen shall be convicted before the magistrate of the zillah of receiving or allowing any other person to receive, directly or indirectly, any money or effects, or other property, from the sharers, or from any person or persons on their behalf, in opposition to his oath, he shall be sentenced to pay a fine to government of three times the amount of the money or value of the property so received by him, or by any other person with his permission, and to imprisonment not exceeding six months; and all prosecutions before the magistrate under this clause shall be for a criminal misdemeanour, at the instance of the collector of the district, through the vakeel of government. It is however at the same time hereby further declared, that the aumeen shall be also liable to a suit for the same offence in the dewanny adawlut of the zillah; and shall, on conviction, be compelled to restore the money or property to the party from whom it may have been received; with all costs to the party prosecuting; and be imprisoned until he shall make good the decree; or the amount of it shall be liquidated by the sale of his property.” § 14. “The collector is to deliver to the aumeen as usual of appointment under his official seal and signature, in which are to be specified the name of the estate, the names of the different sharers, their respective proportions, the number of separate estates into which the property is to be divided, and the shares included in each estate; together with a copy of the regulations under which he is to make the division, and of any entries in the official records which may relate to the property to be divided.” § 15. *First.* The per centage to be allowed the aumeen shall be calculated in the following gradations:— On a jumma not exceeding 500 ru-

Penalty for aumeen convicted of corruption in opposition to their oath.

Section 14. Documents with which the collector is to furnish the aumeen.

Section 15. Rates of per centage to be allowed to the aumeen.

pees, 10 per cent.—On a jumma exceeding 500 rupees, but not exceeding 1,000 rupees, 10 per cent on 500, and 8 per cent on the remainder.—On a jumma exceeding 1,000 rupees, but not exceeding 2,500 rupees, on 1,000 as above, and 5 per cent on the remainder.—On a jumma exceeding 2,500 rupees, but not exceeding 5,000 rupees, on 2,500 rupees as above, and on the remainder 3 per cent.—On a jumma exceeding 5,000 rupees, but not exceeding 10,000 rupees, on 5,000 as above, and on the remainder 2 per cent.—On a jumma exceeding 10,000 rupees, but not exceeding 25,000 rupees, on 10,000 as above, and on the remainder 1 per cent.—On a jumma exceeding 25,000 rupees, but not exceeding 50,000 rupees, on 25,000 as above, and on the remainder 8 annas per cent. On a jumma exceeding 50,000 rupees, but not exceeding one lack, on 50,000 as above, and on the remainder 4 annas per cent. On a jumma exceeding one lack of rupees to whatever amount, on one lack as above, and on the remainder 2 annas per cent. In the above calculations fractions of rupees are to be rejected,” *Second.* “The percentage or commission fixed under the foregoing Clause, shall be considered as a remuneration to the aumeen only, and for such establishment as it may be necessary for him to entertain; but where a measurement of lands may be necessary, the additional establishment of subordinate aumeens and other officers, which may be requisite for the performance of this duty, shall be separately paid by the several sharers in proportion to their respective interests in the estate, by a monthly allowance, to be approved by the collector” *Third.* “The collector on delivering the sunnud to the aumeen shall advance to him one-third of the percentage, and the remaining two-thirds shall be subject to the following provisions: *Fourth.* “When the partition shall be in such a state of forwardness, as to be considered to be half completed, as ascertained from the admission of the parties concerned, or from any other sources of information or documents with which the collector shall be satisfied, one-third more shall be advanced to the aumeen, and the remaining one-third shall be paid

In cases in which a measurement of lands may be necessary, an additional establishment to be paid for such duty.

The collector to advance one-third of the percentage to the aumeen.

Further advances to be issued according to the progress made in forming the partition.

on the collectors receiving notification that the partition has been confirmed." *Fifth.* "If the partition made by the aumeen be not confirmed, the Board of Revenue or the Board of Commissioners are respectively empowered to declare the claim of the aumeen to the remaining portion of the commission to be forfeited, or otherwise, as in their discretion, on a consideration of the circumstances of the case, and the conduct of the aumeen, they may deem proper." *Sixth.* "The collector shall, on deputing the aumeen, fix such period as in his judgment will be sufficient for the completion of the partition; but in the event of extension of time being necessary, it shall be competent to the collector to extend the period, from time to time, as the nature of the duty shall be found to require. Provided that if an aumeen shall not make due progress in, or shall unnecessarily delay, the completion of a partition, or shall be negligent, or be convicted of any misconduct in the execution of his duty, the collector shall immediately suspend the aumeen; and report the circumstance to the Board, to which the case shall be subject, with an explanation of the cause of the delay. The Board, on receipt of the report, will, if there appear sufficient grounds, direct the aumeen to be removed from his trust, and his claim to all arrear of commission to be forfeited; and will make such further arrangement for the completion of the duty, as the nature of the case may require." *Seventh.* "In the event of a partition being protracted to such a period, that the percentage to the aumeen may not be considered a sufficient remuneration for his trouble, and the payment of his establishment, it shall be competent to the Boards, respectively, to allot to the aumeen the whole or part of any fine or fines which may be levied under this regulation, as on a consideration of the circumstances of the case, and the conduct of the aumeen, they may deem proper." *Eighth.* "In the event of the aumeen being removed from his situation, and of another person being appointed to complete the duty, it shall be competent to the Boards respectively to appropriate the amount of such fines, as well as of any forfeited arrear of percentage of the first aumeen, to the payment of the expenses of the partition, to be

What course to be observed when the partition may not be confirmed.

*

Rules for proceeding in cases when the partition may not be made within a prescribed time.

How the aumeen is to be paid when the percentage may be considered an inadequate remuneration.

Rule for the appropriation of fines and percentage when the aumeen may be superseded.

See also 16
Aumeen to sur-
vey & divide
parts of the es-
tate in person

Section 14
Proprietors to
furnish the au-
meen with the
necessary ac-
counts to ena-
ble him to allot
the jumma to
the several
shares

Proprietors, or
their local naibs
or representa-
tives, to swear
to the truth of
the accounts, or
if exempted
from swearing
to subscribe the
solemn declara-
tion
On omitting
to furnish the
required ac-
counts, declared
liable to fine

Such proprietor is
liable to a fine
if he utters
false statements
to the au-
meen under the
penalty pre-
scribed in the
preceding sec-
tion
Putwarries re-
fusing to de-
liver the ac-
counts or act-
ing contrary to
the prescribed
rules, how to be
proceeded against.

Section 18
Documents to
be delivered to
the collector by
the aumeen

completed by the second aumeen." § 16. "Upon the arrival of the aumeen on the spot, he is to survey in person the different parts of the property, so as to enable him to select the lands to be included in each estate, in conformity to the rules prescribed in Sections 7, 8, 9, 10, and 11." § 17. *First.* "The proprietors, or their local naibs or representatives, are to furnish the aumeen with the accounts of the gross produce of each mehaul and village, and all other accounts or information requisite to enable him to assess the public revenue on each of the estates into which the property is to be divided, in conformity to the rules prescribed in the present regulation." *Second.* "The proprietors, or their local naibs or representatives, are to swear to the truth of the accounts before the aumeen, or if they shall be of the description of persons whom the courts of judicature are empowered to exempt from taking oaths, the collector is to authorize the aumeen to receive from them a solemn declaration to the truth of the accounts. If the proprietors shall omit to furnish the required accounts, the persons withholding them shall be liable to such daily fine, until they produce them, as the Board of Revenue or Board of Commissioners respectively may judge it proper to impose, upon a consideration of the case, and their situation and circumstances in life; and the amount of the fine shall be levied by the collector by the same process as is prescribed for levying arrears of revenue." *Third.* "The proprietors, or their local naibs or representatives, are likewise to cause the putwarries and other zemindary officers to attend the aumeen, to explain the accounts; and furnish him with such information as he may require for dividing the estate and apportioning the public jumma; under the penalty of being fined in the same manner as for omitting to produce their accounts. Putwarries refusing to deliver their accounts, or otherwise acting contrary to the rules contained in Section 57, Regulation 8, 1793, and the corresponding sections in Regulations 27, 1795, and 29, of 1803, shall be proceeded against as therein directed." § 18. "When the aumeen has completed the division of the property, and allotted the public revenue on each estate, he is to submit

submit to the collector the papers of the division and allotment, which are to specify the names of the mehauls or villages included in each separate estate into which the property may have been divided, the gross produce of each mehaul and village for the three years preceeding the year in which the division may be ordered to be made, and the proportion of the public jumma which he may have assessed thereon; with such observations regarding the manner in which he may have selected the lands included in each estate, and the accounts from which he may have apportioned the public revenue of them, as may be necessary for the information of the collector, together with a detail of the adjustment which he may have made respecting the tanks, places of worship, or other matters specified in Sections 9, 10, and 11, of this regulation." § 19. *First.* "The collector shall examine the documents which may be delivered to him by the ameen, and after receiving any objections or remarks which may be offered to him by the sharers in person, or by their vakceels, he shall draw out a paper of partition, specifying the mehauls or villages included in the several estates into which the property may have been divided, the gross produce of each mehaul or village, the allotment of the public jumma upon each, the name or names of the proprietor or proprietors of each estate, and, where an estate is to be held as the joint property of two or more persons, their respective shares in the estate, together with the stipulations which may have been made respecting any of the matters mentioned in Sections 9, 10, and 11; and transmit a copy of the paper to the Board of Revenue or the Board of Commissioners, as the case may be, with such observations as may be necessary to enable them to judge whether the division of the property, and the allotment of the jumma on each estate, into which it may have been divided, have been made agreeable to the regulations." *Second.* "Previously to forwarding the paper of partition as required by the preceeding clause, the collector shall furnish the sharers with a copy of it. In the event of the whole of the sharers, by a written declaration

when he has completed the division.

Section 19. Collector, after examining the documents, and hearing the objections of the parties, to draw out a paper of partition.

What the paper is, to contain.

Collector how, to act previously to forwarding the paper of partition to the Board of Revenue or Board of Commissioners.

under their seals and signatures, and attested by four credible witnesses, declaring their satisfaction with the partition statement so communicated to them, or in the event of none of the sharers offering any objection thereto, within fifteen days after they shall have respectively received the copies delivered to them, the collector, on receipt of the general declaration of satisfaction in the former case, or in the latter, on the expiration of the period above stated, shall proceed to put the parties in possession of their respective shares, reporting the same to the Board of Revenue or Board of Commissioners, and submitting to them a copy and translation of the partition statement and allotment of the assessment; but such allotment of the assessment shall not be deemed conclusive, until it shall have been confirmed by the Board of Revenue or Board of Commissioners, who are respectively authorized to make any alterations therein, which may appear to them necessary, for the purpose of carrying into effect the proportionate rule of allotment prescribed in the regulations cited in Section 8, of this regulation. The Board of Revenue and Board of Commissioners are severally empowered to confirm, or make such alterations in, the division of the property and the allotment of the public revenue on each estate, or other matters specified in the paper of partition, as may appear to them proper, except in cases of a reduction of the fixed assessment. The Board of Revenue and Board of Commissioners may order further enquiries to be made, before they pass their determinations on the division, in cases in which it may appear to them necessary." *Third.* "In the event of any objections to the partition statement being offered by the sharers or any of them, within the period of fifteen days specified in the preceding clause, the collector shall not put the parties in possession; but shall transmit without delay a copy and translation of such objections to the Board of Revenue or Board of Commissioners; together with a copy and translation of the partition statement, and of the whole, or such part of the ameen's report as may be applicable to the points objected to, and such further information as may be necessary to enable the

In what cases the sharers are to be put in possession.

Allotment of the allotment to be confirmed by the Board of Revenue or Board of Commissioners.

Who may alter the same, if necessary.

The board also empowered to alter the division of the property.

Or if necessary, may direct further enquiries, previous to determining on the case.

Rule in the event of sharers objecting to the partition statement.

Board to form a satisfactory opinion on the case." § 20. *First.*

"The determination of the Board of Revenue, or Board of Commissioners, on the paper of partition shall be final; and the collector, on receiving notification thereof, shall put the parties in possession of their respective estates, and immediately make the necessary entries in the records of his office, after comparing the documents delivered by the aumeen with the former entries regarding the estate, and correcting or supplying any errors, or omissions, which may be discovered in those entries." *Second.*

"No objections from the sharers to the partition communicated to them by the collector in the first instance shall be received by the Board of Revenue, or Board of Commissioners, after the prescribed period of fifteen days, without good cause for the delay being shewn to their satisfaction." *Third.*

"Whenever the objections to the collector's partition, which may be preferred to the Board of Revenue or Board of Commissioners, shall clearly appear to be groundless, vexatious, and litigious, it shall be competent to the Board of Revenue or Board of Commissioners to impose such fine upon the defaulter as may be deemed proper, on consideration of the circumstances of the parties and the nature of the case. Such fine shall be recovered by the same process as is prescribed for the recovery of arrears of revenue." § 21.

"If any of the sharers in a joint undivided estate shall, by withholding the requisite accounts and papers, or by any other voluntary act, impede or oppose the division of the estate, when the same may have been ordered and proceeded upon in the mode prescribed by the regulations, the party or parties so offending shall, on the report of the collector to the Board of Revenue, or Board of Commissioners, as the case may be, be liable to such fine as the Boards respectively, on consideration of the circumstances of the case, may judge proper to impose; and the fine so ordered shall also be levied in the mode prescribed by the regulations for the recovery of arrears of revenue. It is hereby further explained, that whenever a daily fine may be imposed under any part of this regulation for the purpose of causing the delivery of accounts or otherwise, and such fine may be

Section 20.
Decision of the Board of Revenue and Board of Commissioners to be final, and the parties to be put in possession by the collector, who shall make the necessary entries in the records.

No objection to the partition made by the collector to be received by the boards after fifteen days, unless good cause be assigned.

Boards may fine a collector for preferring groundless, vexatious, or litigious objections.

How such fine shall be recovered.

Section 21.
Board of Revenue, and Board of Commissioners, may impose a fine on every person withholding accounts, or otherwise obstructing the division of an estate.

imposed by the collector, the operation of such daily fine (provided it be approved by the Board of Revenue or Board of Commissioners, as the case may be) or of such part thereof as may receive their approbation, shall commence from the date when the fine may have been first notified to the party on whom it is imposed, unless in any case it should be otherwise ordered by the Board of Revenue or Board of Commissioners, or be otherwise provided by the original order of the collector." § 22. "In the cases specified in Clauses First and Second, Section 4, of this regulation, if all the proprietors of the estate to be divided shall agree to make the division themselves, and to allot the public jumma upon each estate, and to adjust all other matters respecting the division agreeably to the regulations, they shall present a petition to that effect, under their seals and signatures, and attested by four credible witnesses, to the collector, who shall issue directions to the aumeen accordingly. But the proprietors shall produce the required accounts before the aumeen, and swear, or subscribe a solemn declaration, to the truth of them; and the division of the lands, and the apportioning of the jumma, and every other matter relating thereto, shall be settled in the presence, and subject to the inspection, of the aumeen, who shall be responsible for the regulations being in every respect observed. In like manner, if all the proprietors of the estate, which may be ordered to be divided in the cases specified in the foregoing clauses and section, shall agree to refer the division of the estate, and the apportioning of the public jumma and the adjustment of all other matters respecting the division, to an arbitrator or arbitrators, they shall present a petition to that effect to the collector, attested by four credible witnesses, and specifying the name of the arbitrator or arbitrators whom they may choose, and where two or more arbitrators are chosen, the name of the umpire. Upon the receipt of the petition, the collector shall direct the aumeen to cause the parties to execute arbitration bonds; the proprietors shall produce the necessary accounts before the arbitrators; and swear, or subscribe a solemn declaration, to the truth of them, before the aumeen; and the division of the lands, and the allotment

Section 22.
Divisions of estates may be made by the sharers themselves, or by arbitrators under the inspection of the aumeen in certain cases.

of the jumma, and every other matter relating thereto, shall be settled by the arbitrator or arbitrators, in the presence and subject to the inspection of the aumeen, who shall be responsible for his or their proceeding according to the regulations. When the sharers, or the arbitrator or arbitrators in the cases above specified, shall have adjusted the division of the property and the allotment of the public jumma on each estate, and all matters relating thereto, and the whole shall have undergone the revision of the aumeen, he shall submit all the documents and papers specified in Section 18, of this regulation, to the collector; who, upon the receipt of them, shall proceed in the same manner as if the division had been made without the interference of the parties, or the arbitrator or arbitrators; and all the rules contained in this regulation, regarding divisions made solely by the aumeen, shall be held applicable to divisions made by the parties, or arbitrators, under this section."

§ 23. "All the rules prescribed in this regulation, which relate to the expences incurred in making a partition, shall equally apply to the remuneration of the aumeen, who may be appointed to superintend partitions made by the parties themselves or their arbitrators, under the provisions contained in the preceding section; but with this difference, that the aumeen employed in superintending such private partitions shall only be entitled to receive one-half of the amount of remuneration, which the aumeens employed in making public partitions are entitled to under Section 15, of this regulation." § 24. "To remove, as far as may be possible, every inducement to fraud or partiality in the division of landed property, it shall be a rule, that, where two or more of the estates shall consist of the same proportions of the whole property divided, the parties entitled to them shall (excepting in the case subsequently specified) draw lots for the divisions, in the public cutcherry, before the collector, who shall be held responsible that in drawing the lots no unfair means are practised. Agreeably to this rule, if any landed property shall be ordered to be divided into four estates, each consisting of a four annas share or four-sixteenths, or into three estates, one consisting of an eight annas share

Section 23.
How the aumeen employed in superintending private partitions is to be remunerated.

Section 24.
Case in which the sharers are to draw lots for the land, that are to form the respective estates after the division is finally adjusted.

share or eight-sixteenths, and the other two, each of four annas or four-sixteenths of the whole property, after the division and allotment of the public revenue, and every other matter relating to the division, shall have been finally adjusted, the proprietors of the four shares in the first case, and of the two four annas shares in the second, shall draw lots for the divisions; unless they shall settle amongst themselves which division of the property each party is to receive, and present a petition to the collector under their respective seals and signatures, and attested by two credible witnesses, specifying the divisions which each of them may have agreed to take; in which case the collector shall put them in possession of the divisions which they may respectively select."

§ 25. "To guard against collusion, or error, in the distribution of the public jumma, on landed property which may be ordered to be divided into two or more distinct estates, it is declared, that if it shall be proved to the satisfaction of the Governor General in Council, within ten years after confirmation of the partition, as prescribed in Section 3, Regulation 11, 1811,* that the jumma was fraudulently or erroneously apportioned at the time of the division, he reserves to himself the power of ordering a new allotment

§-25. n 25.
Governor Ge-
neral in Council
reserves to him-
self the power
of ordering a
new allotment
of the public
jumma, should
it be proved to
his satisfaction
within ten years
that the al-
lotment was fra-
udulently or er-
roneously made.

* Sections 3 and 4, of Regulation 11, 1811, (erroneously cited as Regulation 10, in Section 25, Regulation 19, 1814.) are in the following terms § 3. "Should it be proved to the satisfaction of the Governor General in Council, that any fraud or material error has been committed in the allotment of the jumma on land ordered to be divided into two or more distinct estates, from and after the date of this regulation, within the term of ten years, subsequent to the period at which such division and allotment may have been made, I shall be competent for the Governor General in Council to order a re-allotment of the jumma on the principles established by the existing regulations." § 4. *First.* "The period of ten years shall be calculated from the date on which the partition of the lands, and allotment of the jumma, may receive the confirmation of the Board of Revenue, or Board of Commissioners, according as the land may be situated in the districts subject to the controul of these Boards in all matters connected with the land revenue respectively: and no such partition and allotment is to be considered to be final or valid (as is in substance provided by the existing regulations) until it shall have been formally and expressly sanctioned by one or other of these authorities." *Second.* "In like manner Tahouds executed for portions of estates, and the correspondent engagements, shall not be considered to constitute distinct estates until the acceptance of them shall have been formally and expressly sanctioned by the Government, or the Board of Revenue, or Board of Commissioners."

of the jumma upon the several estates into which it may have been divided conformably to the principles prescribed in the regulations cited in Section 8, of this regulation, on an estimate of the gross produce of each estate at the time of the division, to be made agreeably to the best evidence and information which may be procurable respecting it; and further, of ordering the parties, whose estates may appear to have been under-assessed, to pay the sharers, upon whose estates the assessment may have been excessive, the sum of which they may be found to have been defrauded by the over-assessment; and in the event of their omitting to discharge the amount, to cause it to be levied by the collector, by the process prescribed for the recovery of arrears of revenue." § 26. "If any of the sharers in landed property ordered to be divided, from indisposition or other cause, shall be unable or shall not choose to attend the collector or the aumeen in person, in the cases required, they shall depute a vakeel duly appointed, with powers to perform all such acts as they themselves are authorized or required to perform under this regulation, until the division of the property shall be finally adjusted." § 27. "If all the sharers in landed property ordered to be divided shall be females, not deemed competent to the management of their own estates, or minors, or persons otherwise disqualified for the charge of their own lands, the collector shall report the same to the Board of Revenue or Board of Commissioners, who are enjoined to be careful that the rights of such proprietors are duly attended to in the division. In instances where more proprietors than one possess an undivided estate; and part of such proprietors shall come under any of the descriptions of disqualified landholders above mentioned, having guardians; such guardians shall vote and act for them, in all matters relating to the division of their lands under this regulation." § 28. "Landed property, for the payment of the public revenue assessed upon which engagements have been or may be concluded with the proprietors, and which may be ordered to be divided under this regulation, shall remain under charge of the manager appointed

And to order the parties whose estates may have been over assessed, to be indemnified by the sharers, whose estates may have been under-assessed.

Section 26. Parties not attending in person to appoint vakeels with full powers to act for them.

Section 27. Board of Revenue and Board of Commissioners to take care that the rights of females and other disqualified landholders are duly attended to in divisions.

Section 28. Joint landed property to be held responsible for the payment of the public revenue, until the parties are put in possession of their distinct shares.

by the proprietors of joint undivided estates; and the whole of it shall be held answerable for the payment of the public revenue assessed upon it (except in the cases hereafter specified) until the division shall have been finally adjusted and ratified; and the proprietors put into possession of the distinct estates into which it may be ordered to be divided." § 29. "In cases where the landed property to be divided is held khaus, or let in farm by Government, the partition, inasmuch as regards the allotment of the lands, shall be made agreeably to the rules prescribed in this regulation, as far as they may be applicable to lands so circumstanced; and the farmer, or the native collector of the revenue on the part of Government, shall produce all the accounts and papers which he may possess respecting the lands, upon receiving a requisition to that effect from the aumeen. Such property when divided will be subject to the rules contained in the regulations cited in Section 8, of this regulation." § 30. "In order to obviate doubts respecting the descriptions of joint estates to which the several provisions contained in this regulation are meant to be applied, it is hereby explained, that the whole of the said provisions are applicable to joint estates held in common tenancy, viz. where all the sharers have a common right and interest in the whole of the estate, without any separate title to distinct lands or mehauls, forming part of the estate held under one general assessment. Many of these provisions, however, such as those which direct a compact division of the lands, the selection of lands of equal value for the several sharers, and other circumstances relative to an equal partition of the estate, have evidently an exclusive reference to the division of landed property between tenants in common, or copartners with equal rights in every part of the estate, and cannot be applied to portions of estates, consisting of specific mehauls or lands, held by purchase or otherwise from the former proprietor, and separable from his estate under the regulations, subject to a proportionate allotment of the public assessment, conformably to the rules prescribed in the regulations cited in Section 8, of this regulation, but remaining annexed to the original estate, until the distinct assessment of

Section 29.
Rules respecting
the division of
landed property
let in farm or held
khaus by Govern-
ment.

Section 30.
All the provisions of this
regulation ex-
plained to be
applicable to
joint estates
held in com-
mon tenancy.

This register shall merely shew the name, the recorded proprietor or proprietors, and the jumma of the estate as it stood when the partition was commenced, with the names, the recorded proprietors, and the jumma, of the several portions thereof made into distinct estates by the partition when confirmed, together with the date of the confirmation; and whenever any such distinct estate (created by partition) shall fall in balance, so as to require a sale of the land for the discharge of the arrear, at any period within ten years of the date of the confirmation of such partition, it shall be the duty of the collector, by every means in his power, to trace the cause of such balance; towards ascertaining whether it has arisen from any fraudulent or erroneous allotment of the assessment, at the time of the division; and whatever may appear to be the cause, to make a special and full report upon the case to the Board, to whose authority he may be subject; and who will determine, upon the receipt of such report, whether the sanction of the Governor General in Council shall be obtained, for directing a new allotment of the jumma upon the several portions into which the original estate was divided, or otherwise." § 32.

"With the view of discouraging all artificial delays in giving possession of their proper shares to sharers entitled to separation in joint estates, held in common tenancy, it is hereby enacted, that whenever it shall appear to the Board of Revenue, or Board of Commissioners, that a partition, duly proceeded upon, is not or cannot be completed within the period originally fixed in the sunnud to the aumeen, by reason of any impediments thrown in the way of its completion by the party or parties holding possession of the estate, it shall be competent for those Boards respectively, upon an application being preferred to them to that effect by the sharer who is out of possession (either through the collector or directly to the Board) to direct immediate possession to be given to such sharer of a certain quantity of the lands of the estate, the assets of which shall be just sufficient (as far as the same can be ascertained) to produce the amount of the jumma payable by such sharer when separated (and which in all cases of fractional shares is of course known)

Collector to report in cases requiring a sale of lands for balances arising from an improper allotment of the jumma within ten years.

Section 32.
Rules for discouraging artificial delays from arising in the way by parties.

known) with an advance of from fifteen to twenty per cent, viz. ten per cent for malikana, and not less than five, nor more than ten per cent, for charges of collection) and no more. This possession is not however to be considered as a final allotment; but the partition is still to proceed in the regular manner, with the view to the adjustment of any inequalities of proportion, which the assets of the lands thus delivered to the possession of the sharers may be ultimately found to bear to the assets of the estate at large, as well as the adjustment of all other points affecting the value of the several shares when divided; so that, on the completion of the partition, the final allotment of land to the several parties separated, according to the jumma payable by them, in every respect be conformable to the rules prescribed in Sections 7 and 8, of this regulation." § 33. "Whenever the partition of a joint estate held in common tenancy shall have been commenced, or ordered to be made, whether on the direct application of the parties to the collector, or under a precept from a court of justice, if the estate should fall in balance at any time before the partition be completed and confirmed, it shall be in the option of any one or more of the sharers (whether in actual possession of their shares or otherwise) to tender to the collector his or their proportions of the balance due, which the collector shall receive, and pass to the credit of his or their shares accordingly; and in the event of a sale of any part of the estate (yet undivided) becoming ultimately necessary for the liquidation of any remaining balance, the portion or portions of the defaulting sharer or sharers only shall be sold; and not those of the sharers who shall have paid their proportions of the balances; and in all such cases the partition shall go on and be completed for the benefit of the purchaser at the public sale; who, on making the purchase, will be entitled to separate possession of the portion or portions of the estate, which would have been allotted under the partition to the defaulting proprietors, (and which in all such instances are to be sold entire,) and will in every respect succeed to all their rights." § 34. *First.* "To provide also, as far as practicable, against any injurious

Section 33
Rules respecting
ing balances ac-
cruing during
the partition of
a joint estate.

Section 34
Rules for pre-
venting delays

in allotting the jumma of specific mehauls forming part of an estate.

Rules as to balances accruing before allotment is completed.

consequences to individuals, from delays and difficulties which are observed to attend the allotment of the public revenue upon specific mehauls, forming part of an estate held under a general assessment, when ordered to be separated therefrom, the following rules are to be observed in regard to such mehauls."

Second. "Whenever the proprietor of a specific mehaul in a joint estate shall be entitled to separation under the regulations, and the separation and allotment of the public revenue upon such distinct mehaul shall have been commenced upon, if the estate of which it forms a component part should fall in balance at any time previous to the completion and confirmation of such allotment, so as to require a sale of the whole or any portion of the estate, it shall be in the option of the proprietor of the mehaul in question (and to whom immediate possession thereof is to be given, if it be not already in his possession) to tender to the collector his share of the balance due, calculated on the proportion which the produce of such specific mehaul, with a deduction of from fifteen to twenty per cent (viz. ten per cent for malikana, and not less than five, or more than ten per cent, for charges of collection), may bear to the jumma of the whole estate. Upon such tender being made, and the collector being satisfied from the enquiries made by him, and the evidence and documents before him, that the produce of the mehaul has not been under-rated, he shall receive the amount tendered, and pass it to the credit of the mehaul accordingly; and in the event of a sale of any part of the estate becoming ultimately necessary for the liquidation of any remaining balance, such sale shall be made with the expressed exception of the specific mehaul in question; and the separation, and final allotment of the jumma thereupon, shall go on and be completed in the prescribed manner, for the benefit of all the parties concerned therein. Provided moreover, that if the payment made by the proprietor of a specific mehaul, under this clause, shall on a final adjustment of the jumma of the parties be found to exceed the true proportion of the balance demandable from him, such proprietor shall be entitled to repayment of the excess from the collector;

collector; who shall at the same time proceed to recover the amount thereof from the defaulting proprietor or proprietors (upon whom a less amount than their just proportions will have been levied) by the same process as he would recover any other arrear of revenue; or if it shall on the contrary appear that the proprietor of the specific mechaul has paid less than he ought to have paid, the deficiency shall be recovered from him, and any excess, which may have been levied from the defaulting proprietor or proprietors, shall be made good to them." § 35. "In the execution of the duties vested in the Board of Revenue and Board of Commissioners by this regulation, as in all other cases, they shall be guided by whatever special orders or instructions they may at any time receive from the Governor General in Council, to whom they shall apply in all cases which they may consider unprovided for by the regulations."

*Section 951
Board of Revenue and Board of Commissioners to be guided by any special orders they may receive from the Governor General in Council. To whom they are to apply in all cases unprovided for by the regulations.*

In addition to the foregoing general provisions for the partition of joint estates in all the provinces subject to the presidency of Fort William, the following special rules have been enacted, in Regulation 9, 1811, for Benares and the upper provinces, in consideration of the nature and number of the putteedary tenures in those provinces, and with a view to secure the rights of the sharers in such tenures by facilitating the division and separate assessment of joint estates, in a greater degree than had been found practicable under the rules before in force. § 2. "Any putteedar, or sharer, of a joint undivided estate, having the exclusive and acknowledged right to, and possession of, one or more distinct village or villages in such estate, shall be at liberty, under the following reservations and exceptions, to cause the said village or villages, to be separated from the general estate; and the jumma of such village, or villages, shall be allotted, after an exact measurement of the lands comprised therein, by deducting from the gross produce thereof an allowance, according to circumstances, from five to ten per cent, for the expense of management, and ten per cent for the neat income of the proprietor, leaving the remainder as the jumma of Government. Provided always, that

Further special rules for Benares and the upper provinces, enacted in Regulation 9, 1811.

*Section 9.
Rules under which putteedars or sharers of undivided estates having the acknowledged right and possession of villages, may cause a separation thereof from the general estate.*

that the quantity of land in actual cultivation, at the time of separation, be not less than five-sixths of the land capable of tillage in the said village or villages; and that no objection be offered to the fairness and adequacy of the assessment on the part of the sharers, in the general estate, of which such village or villages formed a part." § 3. "The accounts of the measurement, directed in the preceding section, shall exhibit the whole of the actual gross produce of the lands; and shall be formed under the immediate superintendence of the collector. The original thereof shall be attested by the proprietor requiring the separation, the putwary of the village, the mirdahs, canongoes, and tehseeldar of the pergunnah. Copies of all such measurements shall be kept in the office of the canongoes, and annually bound in a book, to be attested with the official seal and signature of the collector, and then returned to those officers for deposit among their records." § 4.

Section 3.
What the accounts of the measurement shall contain, and how they are to be prepared and disposed of.

Section 4.
How the expense of the measurement is to be defrayed.

Section 5.
How puttedars possessing a defined share in an undivided share, may procure a separate allotment of the proportional jumma.

"The measurement directed in Section 2, shall be made entirely at the expense of the party requiring the division; and the rules laid down in Regulation 5, 1810, as far as they regard the mode of payment of persons employed in dividing lands, are to be applied to this case."* § 5. "Any putteddar in the actual possession and occupancy of a defined share in a joint undivided estate, (whether such share be defined by a specific quantity of land, or a specified fractional part of a rupee, or of a begah) who may be desirous of having a separate allotment made of the proportional jumma, to which he would be liable in the proportion of his interest in the estate, shall be at liberty to prefer to the collector an application to this effect; and the collector, on receipt thereof, shall proceed to allot the separate assessment of such share in the mode prescribed by Section 2, for the allotment of entire villages. Provided however, that if the specific interest of the party in the estate shall be disputed by the other sharers, no separate allotment shall take place until his specific interest shall have been ascertained by award of arbitration, as provided in a subsequent part of

* The rules referred to are now included, with additional provisions, in Section 15, Regulation 19, 1814.

this regulation for claimants not in possession, or by the decree of a court of judicature." § 6. "Whenever all the occupant putteedars of a joint undivided estate shall desire, or consent to, an allotment of the jumma on the shares in their respective occupancy, and shall deliver to the collector, in writing, a petition signed by the whole of them, containing a statement of the proportional allotment affixed by themselves on each share, it shall be competent to the collector, with the approbation of the Board of Commissioners, after having satisfied himself, by minute and accurate enquiry, that the statement in question is the *bond fide* declaration of the subscribing parties, that the signatures are voluntary, and authentick, and that Government is not liable to suffer in its interests by the measure, to take separate engagements for each puttee from the owner thereof, as a distinct proprietor, at the jumma so fixed by the putteedars conjointly; and no non-occupant putteedar shall be entitled afterwards to assent to, or dissent from, the allotment."

§ 7. "Whenever all the occupant putteedars of a joint undivided estate shall desire such an allotment, but may not agree among themselves in regard to their respective proportions of the jumma so to be allotted, the collector, on receipt of an application to that effect, under the seals or signatures of the whole of such putteedars, and after satisfying himself of the voluntary concurrence of all the subscribing parties, shall proceed to allot the proportional jumma of each respective share, by causing an actual and exact measurement to be made of the entire estate, and of each share, by an aumeen to be deputed for the purpose, or by the tehseeldar, canongoes, and mirdahs of the pergunnah; and the expense of such measurement shall be defrayed by all the putteedars, in the proportion of their respective interests." § 8. "The Board of Commissioners shall instruct the collectors, from time to time, as to the mode by which the duties directed in the preceding sections may be best conducted; and all divisions and allotments made under these rules shall be recorded in the canongoe's office, and attested by the parties, and by the local mofussil officers, in the same manner as is directed by Section 3, in regard to

Section 6.
Rules in the case of all the occupant putteedars desiring, or consenting to, an allotment of the jumma on their respective shares.

Section 7.
Rules in the case of such putteedars desiring an allotment, but not agreeing as to their respective proportions of the jumma.

Section 8.
Rules as to the conduct of such allotment.

the measurement of distinct villages. It is moreover to be understood, that all the provisions of the existing regulations, in regard to aumeens deputed by a collector, shall be held applicable to aumdens deputed under Sections 2, 5, and 7, of the present regulation." § 9. "No division of a share in an estate, or allotment of jumma therein, shall be considered valid, until expressly sanctioned by the Board of Commissioners; and the Governor General in Council reserves to himself the power of revising the assessments made under Sections 2, 5, and 7, at any time within the period of ten years after the making thereof, on proof to his satisfaction of fraud, collusion, or gross error." § 10. "Any person claiming to be a putteedar, or joint sharer in an estate, but not having actual possession of any specific portion thereof, shall be at liberty to prefer his claim before the collector; who will thereupon serve on the party, or parties, who have engaged for the estate in proprietary right, a written notice, setting forth the claim, and calling upon such party or parties for an admission or denial of the claim; and if the said party or parties admit by a writing, authenticated by his or their seal or signature, and attested by the canongoes, the right of the claimant to a specific portion of the estate, it shall be competent to the collector to give the claimant possession of such specific portion, and to proceed to a separate allotment of the jumma of such portion, under the provisions of Section 2, or 5, of this regulation, according as such portion may consist either of one or more distinct village or villages, or of a defined share in the entire estate." § 11. "In the event of the claim being denied, or the specific interest of the claimant being disputed, the collector shall recommend to the several parties to submit the matter in dispute to the arbitration of three or more of the neighbouring zemindars, assisted by the canongoes of the pergunnah; and on the parties consenting to appoint arbitrators, it shall be competent to the collector to tender to the parties, for execution, arbitration bonds in the form prescribed by Regulation 21, 1803; and on the due execution of the arbitration bonds by the parties, to refer the matter for decision to the arbitrators; and all the provisions of the said Regulation shall be applicable to awards given

Section 9.
No division or allotment to be valid, until sanctioned by the Board of Commissioners; and Government may revise the allotment within ten years in certain cases.

Section 10.
Rules in cases of persons not in possession, claiming to be putteedars.

Section 11.
Rules in the event of such claims being denied or disputed.

given by arbitrators appointed under this section. Provided however, that if either party refuse to concur in submitting the matter to arbitration, the claimant shall be left to prosecute his claim by regular suit in the courts of judicature." § 12. "The arbitrators, in all cases referred to them for amicable adjustment under the foregoing section, and the courts of judicature in all suits for putteedaree shares of an estate, shall make it a rule, on giving a decision in favor of the claimant, to specify in the award, or decree, the precise share to which the claimant may be entitled, whether it consist of one or more distinct village or villages, or of a defined portion of the general estate. The collector, on production of such award or decree, shall proceed to the separate allotment of the jumma of the share thus awarded or decreed, under the provisions of Section 2, or 5, of this regulation, according as they may be respectively applicable to the case." § 13. After the separate allotment of the jumma, upon any one or more share or shares of an estate, or upon all the shares of an estate, shall have been made, in conformity to the provisions of Sections 2, 5, 6, or 7, of this regulation, according as the provisions of either may be applicable to the case, and shall have been confirmed by the Board of Commissioners under Section 9, the share or shares, upon which a separate proportion of the general jumma may have been so allotted, shall not be held liable for any default or arrear of revenue, except such as may accrue on the separate proportion of jumma thus allotted upon such share or shares. And in the event of its being necessary to have recourse to a sale of lands for the recovery of any arrear of revenue due from such an estate, the share or shares, from which the arrear may be due, shall alone be liable to be sold." § 14. "In consideration of the peculiar nature of the putteedaree tenures to which this regulation is meant to apply, it is hereby declared, that whenever the Board of Commissioners shall deem it expedient not to proceed to the absolute sale of such defaulting share, it shall be competent to the said Board to authorize a conditional transfer of such share to the proprietor of any other share of the

Section 12.
What the award or decree in such cases shall contain; and how to be carried into effect.

Section 13.
The shares, after the separate allotment, shall not be liable for any arrears, except in so far as may accrue on their separate proportion of the jumma.

Section 14.
Board of Commissioners may in certain cases authorize a conditional transfer of defaulting shares.

same

same general estate, by way of mortgage, or conditional sale, for the amount of the arrear, or of such portion of it as may be equal to the value of the defaulter's share; or with a reservation for a further payment to the owner, if the value of the share in the Board's judgment exceed the amount of the arrears; and the defaulting proprietor, or proprietors, of the share so transferred, and his or their legal representative or representatives, shall be entitled to reclaim possession of such share, or shares, on repayment of the consideration for which it may have been so transferred, with legal interest, at any time within five years from the date of the transfer."* § 15. "If the person, to whom such defaulting

Section 15.
Rules as to ten-
der of repay-
ment under such
conditional
transfers.

share shall have been so transferred, shall, on tender of repayment before two competent witnesses, refuse to accept the same, and to surrender possession of the land, the party tendering it shall be at liberty to deposit the amount in the zillah court, and the judge shall, on such deposit being made, proceed as is directed by Regulation 31, 1803,† in regard to the redemption of conditional sales by the act of the party. If payment of the principal and interest shall not be tendered within five years, the puttee will of course become the *bonâ fide* property of the mortgagee." § 16.

Section 16.
Deposit to be
made with the
collector before
any final pro-
ceeds for division
or allotment
shall take.

"No final process shall issue from the collector's office for the actual division of lands, or allotment of jumina, under any of the rules contained in this regulation, until the parties soliciting such division, or allotment, shall have deposited with the collector a fee equal to one per cent on the estimated gross produce of the land so to be divided, as soon as the same may have been ascertained according to the provisions applicable under this regulation to the case of such division or allotment." § 17.

Section 17.
How fee de-
posited to be
appropriated

"The fee required in the preceeding section, shall be annually accounted for to the Board of Commissioners, who will, after inspecting the annual register directed to be prepared by Section 3,

* The provision in this section, being connected with the collection of the land revenue in Benares and the Upper provinces, should have been noticed, in page 391, with the provisions of Section 17, Regulation 6, 1795, and Section 17, Regulation 27, 1803.

† See volume 1, page 192.

of this regulation, direct its appropriation to the benefit of the native officers in such proportions as may appear proper, on a due consideration of the accuracy and industry of those officers in preparing the register, and the general execution of the duties prescribed for facilitating the division of landed property." §. 18. "Nothing contained in the foregoing rules shall be construed to prevent persons availing themselves of the provisions contained in Regulation 5, 1810,* in cases in which they may not wish to apply for and obtain a separation of their puttees, or shares, under the pre-ent regulation, or in cases in which this regulation may not be applicable."†

These rules not to prevent persons availing themselves of general provisions for partition of estates, in certain cases.

THE fees established by Regulations 15, 1797, and 23, 1803, on the division and union, as well as upon the registered transfer of estates, to defray the expense of the record offices in the Revenue Department, have been already mentioned, under the head of "Native Officers," in that department.‡ The provisions of Regulation 17, 1805, by which Sections 23, 21, and 25, of Regulation 8, 1793, for the election of managers of joint estates, were

Fees established on division and union as well as upon the registered transfer of estates, already mentioned.

Also provisions of Regulation 17, 1805, which rescinded part of regulation 8, 1793 relative to

* Since included in Regulation 19, 1814.

† The principal difference between the special rules in Regulation 9, 1811, for facilitating the division of landed property in Benares and the upper provinces, and the general provisions in Regulation 19, 1814, for the partition of estates paying revenue to Government, consists in the more ready means of obtaining an allotment of the public ass'sment. Under Section 8, Regulation 19, 1814, the public revenue must be assessed on each portion of the divided estate according to the actual rent produce, and in due proportion to the produce, and assessment, of the entire estate, at the time of the division. But under Sections 2, and 5, of Regulation 9, 1811, one or more villages, belonging to a putteedar, or sharer of a joint estate, or any defined share of an undivided estate, in the actual possession of a joint sharer, may be separated from the general estate, on a measurement of the lands comprised in the separable portion, and an adjustment of the assessment, to be made by deducting from the gross produce 15 or 20 per cent for the expense of management, and income of the proprietor; provided that no objection to the fairness of this mode of adjustment be offered by the other sharers, and that the quantity of land in actual cultivation, in the portion of the estate proposed to be separated, be not less than five-sixths of the land capable of tillage. Section 6, of Regulation 9, 1811, also contains a further provision for an allotment of the public jumma by the whole of the occupant sharers of an undivided estate, on a statement to be delivered by themselves, subject to the examination of the collector, and the approbation of the Board of Commissioners.

‡ Page 143.

selection of managers of joint estates.

Present head concluded with further provisions upon this subject in Sections 56, and 57, of Regulation 5, 1812

Section 56
The judges declared competent to appoint managers of joint undivided estates on sufficient cause shown.

On appeal against the person appointed by the provincial courts,

Section 57
The court may be moved for the removal of the manager, in any case, by the court of appeal.

rescinded, and “the proprietors of joint undivided estates left to manage their estates in such manner as they may think most advisable, under the general regulations,” have also been noticed, as connected with the original rules for the settlement of Bengal, Behar, and Orissa.* I shall therefore conclude the present head with an extract from Regulation 5, 1812, which humanely provides for the interposition of the courts of judicature, to appoint a proper person, under security, for the management of joint undivided estate, and thereby preserving the rights of all the sharers, whenever there may be cause for it. *First.* “Inconvenience to the public, and injury to private rights, having been experienced in certain cases, from disputes subsisting among the proprietors of joint undivided estate, it is hereby enacted, that whenever sufficient cause shall be shewn by the revenue authorities, or by any of the individuals holding an interest in such estate, for the interposition of the courts of judicature, it shall be competent to the zillah and city judges to appoint a person, duly qualified, and under proper security, to manage the estate, that is, to collect the rents, and discharge the public revenue, and provide for the cultivation and future improvement of the estate. Provided however, that if the revenue authorities, or any of the individuals holding an interest in the estate, shall be dissatisfied with the selection made by the zillah or city judge, of the individual to perform the duty in question, it shall be competent for them to represent their objections to the provincial court of appeal; which court will confirm the manager chosen, or order the judge to select and appoint another person, according as, on consideration of the circumstances of the case, may appear to them reasonable and proper.” *Second.* “In like manner should the authorities afore-said, or any individual holding an interest in the estate, be at any subsequent time dissatisfied with the conduct of the manager, it shall be competent for them, or him, to represent the circumstances of the case to the zillah or city judge, and to move the court for the removal of the said manager; and should those au-

thorities, or persons, be dissatisfied with the orders which may be passed on the subject by the zillah or city judge, it shall be competent for them to bring the case before the provincial court of appeal; which court will determine on the propriety of removing the manager or otherwise, as may appear to them to be right and proper."

8. LANDS EXEMPT FROM ASSESSMENT; AND PENSIONS.

THE lands held exempt from assessment for the public revenue, under various titles, descriptive of particular tenures, but all comprehended in the general terms *lakheraj*, and *bāzee zemeen*, have attracted the notice of Government at different periods, from the time when supervisors were appointed, in 1769, to obtain local information of the several districts in the lower provinces. In the instructions to those officers,* it was observed, "charitable and religious donations, which successive princes have made, many through zeal, but most through vanity, form no inconsiderable part of some districts; and as it may reasonably be supposed that, in a course of years, the produce of such benefactions has been misapplied, or perverted, or that the particular persons, or societies, for whose support they were granted, have fallen or decayed, it is expected that you will diligently search into and report their true state. You are also to particularize the extent, production, and value, of jagheers; the titles of the present possessors. &c." It was added.—"You are to call for a particular account of all lands which are held on these tenures; and that every motive to concealment may be destroyed, it should be particularly notified that, whatever proprietor delays reporting his name, and the state, of his grants or purchases, after a time prefixed, is to forfeit them to Government." In the year 1773, an investigation of the titles, under which the *jageer*, *altumgha*, and *muddud-mash* tenures, in the

Attention of Government to lands held exempt from revenue, at different periods.

Instructions to supervisors on this subject, in 1769.

Investigation and register of jagheers, altumghas, and muddud-mash.

* See COLLEBROOK'S Digest, Volume 3, Page 174.

province of Behar, were held, took place before the chief of the Patna council (Mr. GEORGE VANSITTART); and a register of these tenures was formed by him; which is still referred to, as an authentic record for the time when it was prepared; though, on a further inquiry made by Mr. SHORE in 1784, it appeared that, by the addition of *ayma* lands not included in Mr. VANSITTART'S register, and of subsequent grants made by the Governor General and Council, or by the provincial council at Patna, (who were empowered, by the 20th Article of the regulations passed on the 23d November 1773, to grant sunnuds for lands not yielding a rent of more than one hundred rupees) the annual rent produce of the registered tenures, in the above province, had increased from rupees 8,62,613, the amount in 1773, to rupees 13,08,786.* With a view to ascertain any abuses that might have taken place, to the prejudice of Government, as well as to prevent such abuses in future, Mr. SHORE proposed the institution of a registry office for the alienated or lakheraj lands in Behar; with powers and instructions, besides forming an exact register of the lands, to call upon all persons in possession to produce their titles, and to report thereupon to the committee of revenue, for the future orders of Government. This was approved, and directed accordingly, by the Governor General and Council, on the 20th June 1784; and the appointment of a distinct superintendant of the registry office being subsequently discontinued, the duty was transferred to the collectors, under regulations for registering jagheers, altumghas, and muddud-mash lands in Behar, passed on the 23d April 1788.† In like manner an office, denominated *bazee zemeen dufter*, was, at the suggestion of the acting president of the committee of revenue (Mr. SHORE) established, on the 31st May

* Vide Mr. SHORE'S letter to the committee of revenue, dated 29th January 1784, in COLEBROOKE'S Digest, Volume 3, Page 236.

† See regulations in the same Volume Page 487. The previous inquiry made by Commissioners ANDERSON, CROFTES, and BOGLE, relative to the Lakheraj and Chakeran lands of several districts in Bengal, and the quantity ascertained by them, as stated in their report of 25th March 1778, have been already noticed in the introductory section.

1782, for registering and enquiring into *bazee zemeen*, or lands of every description, held exempt from revenue, in the provinces of Bengal and Orissa*. Further rules were added on the 26th August 1783;† and on the 19th July 1786;‡ when the duties, which had been committed to the superintendant of the *bazee zemeen duffer*, were transferred to the collectors of the several districts, “with a view to the more effectual prosecution of the investigation into that branch of the resources of Government (the alienated lands throughout the provinces) as well as to avoid the evil consequences of a divided authority in the mofusil.” In the year 1788, a more systematic plan, for inquiring into the titles of persons holding lands exempt from assessment, was framed by the Governor General in Council; but previous to the adoption of the proposed rules, it was judged advisable to refer them to the Board of Revenue, and the collectors, for their sentiments on the probable consequences of strictly enforcing them. On consideration of the reports furnished in answer to this reference the Governor General in Council, on the 1st December 1790, passed a revised code of “regulations respecting *Jaheraj* lands; or lands paying no revenue to Government;” which, with additions and modifications, were re-enacted in Regulation 19, 1793, for the lower provinces; (extended, with alterations, to Cuttack by Regulations 12, 1805, and 5, 1813;) in Regulation 41, 1795, for the province of Benares; and in Regulation 31, 1803, for the provinces ceded by the Newab Vizeer; extended to the provinces obtained from DOWLET RAO PINDHEEA and the PESHWA, by Section 21, Regulation 8, 1805; but since modified in the whole of these provinces by Regulation 8, 1815. The preamble to Regulation 19, 1793, which corresponds in substance with the preambles to Regulations 41, 1795, and 31, 1803, (substituting the periods at which Benares and the upper provinces became subject to the Company’s authority) explains the grounds on which the provisions contained in these regulations were found-

revenue in Bengal and Orissa, established in May 1782.

Additional rules passed 26 August 1783, and July 1786, and duties of superintendant of the *bazee zemeen duffer* transferred to the collectors.

A more systematic plan framed in 1788; and referred for sentiments of the Board of Revenue and collectors.

Revised code of regulations respecting *Jaheraj* lands, passed 1st December 1790.

The regulations with additions and alterations re-enacted in Regulations 19, 1793, 41, 1795, and 31, 1803.

Preamble to Regulation 19, 1793, and its correspondence with the preambles to Regulations 41, 1795, and 31, 1803.

* The plan, as approved by the Governor General in Council, on the date specified, is inserted, at length, in COLEBROOK’S Digest, Volume 3, Page 224.

† Page 485, of the same Volume.

‡ Page 250, of ditto.

ed; and the greater part of the rules prescribed in Regulation 19, 1793, are applicable to all the provinces. It will therefore be convenient to insert the following extracts from that regulation, in the first instance; and to notice afterwards the variations which exist in the rules enacted for Cuttack, Benares, and the upper provinces. “By the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every begah of land (demandable in money or kind according to local custom) unless it transfers its right thereto for a term, or in perpetuity; or limits the public demand upon the whole of the lands belonging to an individual, leaving him to appropriate to his own use the difference between the value of such proportion of the produce, and the sum payable to the public, whilst he continues to discharge the latter. As a necessary consequence of this law, if a zemindar made a grant of any part of his lands to be held exempt from the payment of revenue, it was considered void, from being an alienation of the dues of Government without its sanction. Had the validity of such grants been admitted, it is obvious that the revenue of Government would have been liable to gradual diminution. Previous however to the Company’s accession to the dewanny, numerous grants of this description were made, not only by the zemindars, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses. Of these grants, some were applied to the purposes for which they were professed to have been made; but in general, they were given for the personal advantage of the grantee, or with a view to the clandestine appropriation of the produce to the use of the grantor; or sold to supply his private exigencies. In conformity to the principles which prevailed under the native administration, the British Government have, at various times, declared all grants for holding land exempt from the payment of revenue, made since the date of the Company’s accession to the dewanny without their sanction, illegal and void. Their lenity however induced them to adopt it as a principle, that

Preamble to
Regulation 19,
1793, which
gives the rules
contained in
the regulation,
were enacted.

grants of this description, made previous to the date of the dewanny, and provided the grantees had obtained possession, should be held valid to the extent of the intentions of the grantor, as ascertainable from the terms of the writings by which the grants might have been made, or from their nature and denomination. But no complete register of these exempted lands having been formed upon the Company's accession to the dewanny, nor subsequent to that period, many zemindars, as well as temporary farmers of the public revenue, and the officers of Government to whom the collection of the revenue in the different districts has been occasionally committed, in consequence of the zemindars refusing to pay the revenue demanded of them, have availed themselves of the abovementioned rule of limitation, to make grants of extensive tracts of land to others, or in the names of their relations or dependents for their own use; dating the deeds for these alienations previous to the Company's accession to the dewanny; or procuring them to be registered in the zemindari records, as having been alienated prior to that period. Others have made such alienations without antedating the grants, and left it to the grantee to maintain himself in possession by such means as circumstances might afford, in the event of his title being brought into question. The Governor General in Council deeming it incumbent on him to recover the public dues, thus alienated in opposition to the antient and existing laws of the country; as well as to resume the revenue of the lands, the grants for which might expire; it was made a rule, at the time of forming the decennial settlement, that the jumma assessed upon the estates of individuals was to be considered as exclusive and independent of all existing lakheraj lands, whether exempted from the *lakheraj*, or public revenue, with or without due authority; and by the third clause of the seventh article of the proclamation contained in Regulation I, 1793, which specifies the conditions under which Government declared the decennial settlement permanent, it is expressly stipulated, that the Governor General in Council will impose such assessment as he may deem equitable on all lands at

present

present alienated, and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles. The Governor General in Council however, at the same time that he is desirous of recovering the public dues from lands which have been illegally alienated, is equally solicitous that persons holding such grants, under titles that are declared valid, should be secured in the possession and enjoyment of their property. It is likewise his wish that the recovery of the dues of Government, from those lands which have been illegally alienated previous to the 1st December, 1790, should be attended with as little distress as possible to the possessors; and to obviate all injustice, or extortion, in the enquiry into the titles of persons holding exempted lands, he has further resolved that the claims of the public on their lands (provided they register the grants as required in the regulation) shall be tried in the courts of judicature, that no such exempted lands may be subjected to the payment of revenue, until the titles of the proprietor shall have been adjudged invalid by a final judicial decree. Upon the above grounds, and with a view to facilitate the recovery of the public dues from lands held exempted under invalid grants, as well as to prevent any similar alienations being hereafter made, to the prejudice of the security of the public revenue, which has been assessed in perpetuity upon the estates of individuals; and further that Government, and the officers employed in the collection of the public revenue, may at all times have in their possession a correct register of the lands in the several zillahs, held exempt from the payment of revenue, the following rules, containing the rules passed on the 1st December 1790, with modifications, have been enacted." § 2. *First.* "All grants for holding land exempt from the payment of revenue, made previous to the 12th August 1765, the date of the Company's accession to the dewanny, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided the grantee, actually and bonâ fide, obtained possession of the land so granted previous to the date above mentioned; and the land shall not have been subsequently rendered subject to the payment of revenue,

Section 2.
Grants of
land made
previous to the
12th Aug. 1765,
declared
valid, provided
the grantee ob-
tained possession
before that date,
and has since
held the land
without paying
revenue.

nue, by the officers or the orders of Government. If it shall be proved to the satisfaction of the court, that the grantee did not obtain possession of the land so granted previous to the 12th August 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid." *Second.* "In the event however of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the dewanny, and of its being proved to the satisfaction of the court, in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the court shall suspend its judgment, and report the circumstances to the Governor General in Council; to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor General in Council the court is to decide accordingly. No such claim however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any zillah or city court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent jurisdiction within the twelve years, and proceeded in it, as required by Section 14, Regulation 3, 1793." *Third.* "But no part of the two preceding clauses is to be construed to empower the courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of revenue, under a grant made previous to the Company's accession to the dewanny,

Grants made before the dewanny of no validity, if possession was not obtained prior thereto, or the lands have been since subjected to the payment of revenue.

Courts to refer to the Governor General in Council, in the event of their entertaining doubts as to the authority of any officer of Government who may have subjected exempted land, granted before the dewanny, to the payment of revenue.

Claims to hold exempt from revenue lands that have paid revenue for twelve years, not to be heard, unless sufficient cause be shown for the delay.

No person not being the original grantee, is to be entitled to hold exempt from the payment of revenue land now subjected to the payment of revenue, under

the writing for life
grants previous
to the dewanny.

Nor to entitle
the heirs of per-
sons now pos-
sessing exempt
lands, under
grants made
previous to the
dewanny, to
hold such lands
exempt from
the payment of
revenue, upon
the death of the
present posses-

power reserved
to the Govern-
or General in
Council, for de-
termining whe-
ther life grants,
to which one or
more successions
of whatever na-
ture may have
taken place pri-
or to the date of
the dewanny,
shall be subjec-
ted to the pay-
ment of reve-
nue or not, on
the death of
the present pos-
sessor.

The present
possessors of
such life grants
prohibited from
transferring them
or mortgaging
the revenue of
them beyond
their own lives.

the writing for which may expressly specify it to have been given for the life of the grantee only ; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only, according to the antient usages of the country."

Fourth. " Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the dewanny, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only ; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where from the nature and denomination of the grant it shall be proved to be a life tenure only, according to the antient usages of the country. Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved to the satisfaction of the court, that the grant, from the nature and denomination of it, is hereditary according to the antient usages of the country. But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the dewanny, the lands shall not be subjected to the payment of revenue under the decree, without the sanction of the Governor General in Council ; to whom a copy of the proceedings and decree of the court is to be transmitted ; and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to him proper." *Fifth.* " The present possessors of lands now exempt from the payment of revenue, under such life grants made previous to the dewanny, and declared by the preceding clause

clause not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void. It is to be understood however, that if any such life grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor; and are to be excepted from the other rules contained in this and the preceding clause. If doubts shall arise in any court as to the competency of the authority of any officer of Government to confirm any such life grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the Governor General in Council; to whom a power is reserved of determining finally whether such officer possessed competent authority to confirm the grant as hereditary, or not; and the court, upon receiving the determination of the Governor General in Council, is to decide accordingly." § 3. *First.* "All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August 1765,* and previous to the 1st December 1790, corresponding with the 18th Aughun 1197 Bengal era, the 10th Aughun 1193 Fussily, and the 18th Aughun 1198 Willaity, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid." *Second.* "If doubts shall be entertained by any court as to the competency of the authority of any officer to confirm any such grant, the court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council; to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the court, upon receiving the determination of the Governor General in Council,

Such life grants if confirmed by Government or its officers duly empowered not to be subject to the payment of revenue on the death of the present possessor.

Section 3. All grants made or confirmed since the dewanny, excepting by the authority of Government, or its officers duly empowered, are declared invalid.

Courts how to proceed in the event of their entertaining doubts of the authority of the officer to confirm the grant.

* The date of the royal firmans to the Company, for the dewanny of Bengal, Behar, and Orissa See Vol. 1, Page 6. It corresponds with the 31st Sawun of the Bengal year 1172; and 12th Bhadoon of the Fussily year 1172.

Exception to the rule in clause 3rd, in favor of former grants made by chiefs of the provincial councils, for lands not producing more than one hundred rupees per annum.

And also of lands not exceeding ten begahs granted before the dates herein specified, which are appropriated to religious or charitable purposes.

Section 4.
Questions regarding the proprietary right in lands alienated before the first December 1790, and a judgment as to the payment of revenue, to be determined in the dewanny adawlut, this regulation with respect to such lands relating only to the revenue.

shall decide accordingly." *Third.* "The rule contained in clause first is not to be considered to extend to authorize the subjecting to the payment of revenue land held exempt from the payment of it under grants, made previous to the commencement of the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the land may be situated in Bengal, Behar, or Orissa,) under the signature of the chiefs of the late provincial councils, and the seals of those councils, agreeably to an authority vested in them by Government, for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees." *Fourth.* "Nor to authorize the subjecting to the payment of revenue any land, the grants for which, whether for the life of the grantee, or otherwise, were made previous to the commencement of the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the land may be situated in Bengal, Behar, or Orissa,) where the quantity of land granted shall not exceed ten begahs, and the produce of it is bonâ fide appropriated as an endowment on temples, or to the maintenance of Brahmins, or other religious or charitable purposes. The rule in this clause is declared to extend also to all grants of land whatever, not exceeding ten begahs, made previous to the dewanny, the produce of which may be now so appropriated." § 4. "This regulation, as far as regards lands alienated previous to the 1st December 1790, respects only the question whether they are liable to the payment of revenue or otherwise. Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the courts of dewanny adawlut, in the event of any dispute or claim arising respecting it, between the grantee and the grantor, or their respective heirs or successors. The grantees, or the present possessors, until dispossessed by a decree of the dewanny adawlut, are to be considered as the proprietors of the lands, with the same right of property therein, as is declared to be vested in proprietors of estates,

tates, or dependent talooks (according as the land may exceed, or be less than, one hundred begahs, as specified in Sections 6, 7, and 21,) subject to the payment of revenue; and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government, (according as the revenue of the estate in which the land may be situated may be payable by the proprietor, or a farmer, or collected khans) under the rules for the decennial settlement. If by the decision of the dewanny adawlut the proprietary right in the land shall be transferred, the person succeeding thereto is in like manner to be responsible for the payment of the revenue assessed, or chargeable thereon." § 5. "By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding section, instead of dispossessing him of the land altogether agreeably to former usage, and assessing the land in the mode prescribed in the two following sections, a liberal provision will be left to him. Where the grant may have been made before the Bengal year 1178, or the Fussily or Wallaity year 1179, the proprietor will hold his land, as an estate paying a fixed revenue of only half the amount assessed on other malguzarry lands in the country; and where the grant may have been made subsequent to the abovementioned periods, he will hold the land subject to the payment of the same revenue as other lands assessed with revenue under the rules for the decennial settlement, as hereafter directed." § 6. "The revenue assessable, under Section 9, on land not exceeding one hundred begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate, or dependent talook, in which the land may be situated, notwithstanding any thing said in Section 8, Regula-

Section 5.
Grant to possessor of the land from provision in the preceding section.

And from subsequent rule of settlement.

Section 6.
To whom the revenue assessed on lands not exceeding one hundred begahs, alienated before the 1st December 1790, is to belong.

tion 1, 1793; and he shall not be liable to the payment of any additional revenue, on account of the assessment which may be chargeable on such lands, during the continuance of the engagements under which he may pay the revenue of such estate, or dependent talook, when the land may be so adjudged liable to the payment of revenue. If the estate or dependent talook shall be held *khaus*, when the lands are decreed liable to the payment of revenue, the amount is to be collected by and paid to whomsoever the rents and revenue of the estate, or talook, may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor, or a farmer. The land which may be so adjudged subject to the payment of revenue is to be considered as a dependent talook.”

Section 7.
The revenue assessable on lands exceeding one hundred begahs, alienated prior to the 1st December 1790, declared to belong to Government.

§ 7. “The revenue assessable under Section 8, on land exceeding one hundred begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government. The lands specified in this section, which may be adjudged liable to the payment of revenue, are to be considered as independent talook.” § 8. *First.* “The amount of the re-

Section 8.
Rules for rating

* From the terms and general tenor of this section, it seems evident that the revenue, or rather rent, assessable on land, not exceeding one hundred begahs, is meant to be assigned to the person responsible for the public revenue of the estate, in which the land may be situated. Article 6, of the regulations passed on the 1st December, 1790, whereby the revenue assessed on portions of villages, not exceeding one hundred sicca rupees per annum, was “declared to belong to the person responsible to Government for the revenue of such villages, whether he be zemindar or farmer,” also corroborates this construction; and it is further confirmed by a remark in the public minute, on which these regulations were founded, that “the revenue arising from these little spots will lighten the assessment upon the villages, and consequently render it more secure;” which would not be the case, if any person, not answerable for the public assessment, were to receive the rent assessed upon the small spots of land referred to. Yet, dependent talookdars, viz. talookdars who, as under tenants, pay rent to zemindars, and who consequently are not responsible for the revenue payable to Government, (unless the rent demandable from them by the officers of Government during a *khas* collection can be so considered) appear to be recognised in Sections 9 and 11, (subsequently cited) as entitled, with superior landholders and sudder farmers, to sue for and receive the revenue or rent, assessable upon land, not exceeding one hundred begahs, within the provisions of Section 6.

venue payable from the lands specified in Section 7, is to be adjusted according to the following rules." *Second.* "If the grant shall have been made previous to the Bengal year 1178, or the Fussily or Willaity year 1179, (according as the lands may be situated in Bengal, Behar, or Orissa,) the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rules at which other lands in the pergunnah of a similar description may be assessed.* If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such *russud* or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue, with the sanction of the Governor General in Council, may deem reasonable. The produce of the land shall be ascertained by a survey and measurement, one half of the expence attending which is to be defrayed by the proprietor, in the event of his agreeing to the jumma required of him, and the other moiety by Government; or by such other mode of investigation as the collector, with the sanction of the Board of Revenue, may judge advisable. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *khaus*, under the rules prescribed in Regulation 8, 1793. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future; but he and his heirs and successors shall hold the lands at such fixed revenue for ever." *Third.*

the assessment on the lands specified in Section 7. If the grant shall have been made previous to the Bengal year 1178, or the Fussily or Willaity year 1179.

* In the lakheraj regulations of 1st December, 1790, it is directed, that "if the grant shall have been made previous to the Bengal year 1178, and the Fussily year 1179, (being the year in which the landholders were first bound by their engagements not to alienate any land from the public assessment) the jumma assessed upon the land shall be equal to one half of the neat annual produce." By the terms "one half of the annual produce of the land," in the clause here cited, must therefore be understood a moiety of the *neat rent produce*, or other neat produce, as defined respecting "actual produce," in Section 8, Regulation 1, 1801, viz. "the neat annual rent, or other neat produce, receivable by the proprietor, after deducting from the gross rent, or other gross produce, the actual expence of collection; and other usual charges of management." Yet, with this explanation, it cannot be strictly said, as in Section 5, that "the proprietor will hold his land as an estate, paying a fixed revenue of only half the amount assessed on other *malguzary* lands in the country."

If the grant shall have been made subsequent to the Bengal year 1178, or the Fushly or Willaity year 1179.

“ If the grant shall have been made subsequent to the Bengal year 1178, or the Fushly or Willaity year 1179 (according as the lands may be situated in Bengal, Behar, or Orissa,) the revenue or jumma, to be paid to Government from the lands, shall be assessed agreeably to the rules prescribed in Regulation 8, 1793, for forming the settlement of estates paying revenue to Government; and the produce shall be ascertained, and the expence of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm, or held khaus, under the rules for the decennial settlement. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future; but he and his heirs and successors shall hold the land at such fixed revenue for ever.” § 9. “ The rules in the preceding section are to be held applicable to the lands specified in Section 6, with this difference, that the proprietor, farmer, dependent talookdar, or officer of Government, to whom the revenue may be payable, shall ascertain the produce of the land, without subjecting the grantee to any expence; and submit the accounts of it to the collector, who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue; who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount. If the proprietor shall agree to pay the revenue required of him, he and his heirs and successors, shall hold the lands as a dependent talook, subject to the payment of such fixed revenue, for ever.” § 10. “ All grants for holding land exempt from the payment of revenue, whether exceeding or under one hundred begahs, that have been made since the 1st December 1790, or that may be hereafter made, by any other authority than that of the Governor General in Council, are declared null and void; and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it. And every person who now

possesses,

Section 9.
Rule for fixing
the amount of
the revenue on
the lands de-
scribed in Sec-
tion 6.

Section 10.
Grants made
since the 1st De-
cember 1790,
are declared null
and void.

possesses, or may succeed to, the proprietary right in any estate, or dependent talook, or who now holds, or may hereafter hold, any estate, or dependent talook in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate, or talook, held khaus, is authorized and required to collect the rents from such lands at the rates of the pergunnah, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or talook in which it may be situated, without making previous application to a court of judicature; or sending previous or subsequent notice of the dispossession or annexation to any officer of Government; nor shall any such proprietor, farmer, or dependent talookdar, be liable to an increase of assessment on account of such grants which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate, or talook, when the grant may be so resumed and annulled. The managers of the estates of disqualified proprietors, and of joint undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section." § 11. "Proprietors or farmers of land, or dependent talookdars, who may deem themselves entitled to the revenue of any land of the description of that specified in Section 6, situated in their respective estates, farms, or talooks, are to institute a suit for the recovery of it in the court of dewanny adawlut. Any proprietor, or farmer of land, or dependent talookdar, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured. Where estates, or dependant talooks, may be held khaus, the right of suing for the recovery of the revenue, from the lands specified in Section 6, is to be considered as vested in the party to whom the collections from the estate, or talook, may be payable. If the estate or talook be held khaus by Government, the tehsceldar or other officer, is to sue for the revenue chargeable on such lands in the

Managers of estates to exercise on behalf of the proprietors the powers vested in proprietors by this section.

Section 11. How proprietors and farmers of land, &c are to recover the revenue payable to them from the lands specified in Section 6.

To whom the right of suing for the revenue of the lands specified in Section 6, is to belong, if the estate or talook be held khaus.

Section 12.
Collectors to
prosecute for
the recovery of
the public dues
from the lands
specified in Sec-
tion 7.

No lapse of
time to be a bar
to the recovery
of the public
dues.

Section 13.
Commission of
twenty-five per
cent to be re-
ceived by col-
lectors on the
permanent jum-
ma of lands ad-
judged liable to
the payment of
revenue in con-
sequence of a
prosecution by
them to a final
decision.
Collectors in-
stitute suits,
but not prose-
cuting them to
final decision,
not to receive
the commission,
except in the
cases here pre-
scribed.

Section 14.
Order of re-
port to the
Board of Re-
venue whenever
he may receive
information
that a land is
under an invalid
title.

Board, if they
feel it necessary,
empowered to
order the collector
to institute
the recovery of
the public dues.

And may re-

room of the proprietor, but under the directions of the collector." §. 12. "It is to be the duty of the collectors, after receiving the sanction of the Board of Revenue for that purpose as directed in Section 14, to prosecute in the court of dewanny adawlut on behalf of Government for the recovery of the public dues from the lands specified in Section 7, that are declared by this regulation subject to the payment of revenue; and no lapse of time shall be considered as a bar to the recovery of the public dues from such lands." §. 13. "The collectors shall receive a commission of twenty-five per cent on the amount of the jumma which may be assessed on land adjudged liable to the payment of revenue to Government, in consequence of suits which may be prosecuted by them to a final judgment. Collectors who may institute suits for the recovery of the public dues from lands, but who shall not prosecute them to a final decision whilst they hold the office of collector of the zillah in which the lands may be situated, shall not be entitled to any commission in the event of the lands being adjudged liable to the payment of revenue, but the commission shall be paid to the collectors who may prosecute them to a final judgment as above prescribed; unless the Governor General in Council shall deem it equitable, upon a consideration of the circumstances of the case, to give the whole or any part of the commission to the collectors by whom the suits may have been instituted; or to collectors who may have succeeded the collectors who instituted the suits, and preceded the collectors by whom they may have been prosecuted to a final decision." §. 14. "When a collector shall have ground to believe that any land exceeding one hundred begahs, and alienated by any one grant previous to the 1st December 1790, is held exempt from the payment of revenue under an invalid title, he is to state such information as he may possess, or be able to procure respecting it, to the Board of Revenue; who, if there shall appear to them ground to believe that the land is liable to the payment of revenue, are empowered to order the collector to institute a suit for the recovery of the public dues. The Board of Revenue are likewise empowered, pre-

vious to ordering the institution of the suit, to authorize the collector to demand from the proprietor, by a written requisition under his official seal and signature, and expressly specifying it to be made pursuant to the orders of the Board, to deliver into his custody, by a time to be limited in the requisition, all the writings in virtue of which he may possess such lands, or under which they may have been held exempt from the payment of revenue. The collector is to give a receipt for the writings. If the proprietor shall omit or refuse to deliver the writings within the limited time, the Board of Revenue are empowered to order the collector to issue a second and similar requisition to him to deliver the writings by a specific day, and shall at the same time impose such daily fine on the proprietor, as they may judge proper, upon a consideration of his situation and circumstances in life; and the amount of the fine shall be levied by the process pre-scribed for the recovery of arrears of revenue; and if the proprietor shall not deliver up the writings by the time pre-scribed in the second requisition, the Board of Revenue are empowered to attach the lands, and collect the rents on account of Government, until the proprietor shall produce the writings, or the lands shall be adjudged liable to the payment of revenue. If the proprietor shall deny that he has any writings, or shall not deliver up all the writings, and upon a suit being instituted against him for the recovery of the public dues, he shall in the first case produce any writing, or in the second any writing or writings besides such as he may have delivered to the collector, the writing or writings, so produced, shall not be received by the court in evidence, nor shall they have any weight in the decision, any more than if they had never existed; unless, in the second case, he shall show good cause to the satisfaction of the court for not having produced the writings, and shall prove that he assigned such cause in answer to the collector's requisition. But no collector is to require any person, holding land exempt from the payment of revenue, to produce his title-deeds or writings, (excepting for the registry of them by the publication specified in Section 25.) or to institute a suit for the recovery of the dues of Government from such

quire the proprietor or to deliver up his title deeds.

And may fine him on his refusing to deliver up the writings up on the first requisition.

And levy the amount in the same manner as arrears of revenue.

And attach the lands upon his refusing to deliver up the writings on the second requisition.

Proprietors deny that they have any writings, not to be allowed to avail themselves of any writings they may afterwards produce.

Qualification of the rule.

Collectors prohibited requiring from the proprietor of a land his title deeds, or writings, at a particular time, without the previous sanction of the Board of Revenue.

Suits for the recovery of the public dues instituted by the assistants to the collectors, and now depending, not to be prosecuted without the orders of the Board of Revenue.

Board of Revenue may order suits to be instituted without any previous report from the collectors.

Section 15. Collector to defend suits instituted by individuals to hold land exempt from the payment of revenue.

Vakeel of Government to defend or prosecute suits instituted against, or by, Government.

Rules to be observed by the collector in the event of Government being cast wholly, or in part.

such exempted lands, without obtaining the previous orders of the Board of Revenue for that purpose; and any suits that may have been instituted by the assistants to the collectors for the recovery of the dues of Government from lands held exempt from the payment of revenue, which may now be depending in any of the courts of judicature, are not to be proceeded in, until the sanction of the Board of Revenue shall be obtained for that purpose. Such suits, if the grants which constitute the subject of them shall come within the description of the grants specified in Section 7, and the Board of Revenue shall approve of the prosecution of them, are to be carried on by the collectors, and to be decided upon under this regulation. The Board of Revenue are empowered, without receiving any previous report from the collectors, to order suits to be instituted for the recovery of the public dues from lands, which they may have ground to believe are held under invalid titles."

§ 15. "The collectors of the revenue are to defend all suits that may be instituted against Government, by any individual claiming a right to hold lands exempt from the payment of public revenue; and such suits, and the suits which the Board of Revenue may direct the collector to institute, are to be defended and prosecuted by the vakeel of Government, under the instructions of the collector; and in the event of Government being cast, either wholly or in part, or if the collector shall be dissatisfied with the decree in any respect, all the rules contained in Section 30, Regulation 14, 1793, and the other sections in that regulation, respecting decisions given against a collector in any zillah court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expence of Government; and in the event of the Board of Revenue not deeming it proper to order an appeal against the decision of the zillah court to be preferred to the provincial court of appeal, or against the decision of the provincial court to the Sudder Dewanny Adawlut, in the event of their

their ordering the cause to be appealed to the provincial court and of its being given against them therein, they are to report their reasons in both cases, for not preferring the appeal, to the Governor General in Council; who will direct the cause to be appealed, or not, in either case, as may appear to him proper." § 16. "If a suit shall be brought before a court of judicature by the collector, or any officer of Government, or by a proprietor, or a farmer of land, or a dependent talookdar, for the recovery of the revenue of lands now held exempt from the payment of revenue, or by any individual, to hold exempt from the payment of revenue lands which are now subject to the payment of revenue, and it shall appear to the court that the suit was instituted upon insufficient grounds, or from vexatious or other unjustifiable motives, it shall award against the prosecutor, in favor of the party sued, such costs and damages as may appear to it equitable, upon a consideration of the circumstances of the case." § 17. "If it shall appear to any court of judicature, during the course of a trial, that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December 1790, has been forged, or that the name of the original grantee has been erased, and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue; and the land shall be subjected to the payment of revenue accordingly." § 18. "Any person by whom any of the frauds specified in the preceding section may appear to have been committed, or who may have been concerned therein, shall, provided the court is of opinion that there are sufficient grounds for a criminal prosecution, be committed or held to bail (according to the circumstances of the case) to take his trial before the court of circuit." § 19. "The proprietor of a grant of exempted land, which may be adjudged liable to the payment of revenue, shall not be required to refund

Section 16.
Courts to award
adequate costs
and damages
in cases of litiga-
ous, vexatious,
or groundless
prosecutions be-
ing instituted
under this regu-
lation.

Section 17.
Grants for, or
altered in any
respect, or ante-
dated, declared
void.

Section 18.
Persons con-
cerned in the
fraud liable to a
criminal prose-
cution.

Section 19.
Proprietors of
land, adjudged
subject to the
payment of re-
venue, to pay
the same

From the date of
the first decree
to the date of
the first decree
to the date of
the first decree

Section 20.
C. 1. 1. 1. 1.
de la loi de la
de la loi de la

And to be re-
garded as per
first decree &
to them.

Proviso.

Section 21.
Periodical
lands of the
in the
so called
to the payment
of revenue
where to be
made.

any part of the collections which he may have made from the land previous to the date of the first decree adjudging the land subject to the payment of revenue, whether it be given in the zillah court, the provincial court of appeal, or the Sudder Dewanny Adawlut. But he shall pay the jumma which may be assessed upon the lands from the date of such first decree, adjudging the land subject to the payment of revenue." § 20. "Grants of land, which from the terms of the grant, or the nature of the tenure, are hereditary, and are declared valid by this regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale, or otherwise; and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the collector, within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this regulation." § 21. *First*. "When land, of the description specified in Section 7, shall be finally adjudged liable to the payment of revenue, the name or names of the village or villages, or land included in the grant, and the measurement thereof, the pergunnah in which the land granted may be situated, the amount of the public revenue payable therefrom, the name or names of the proprietor or proprietors, and a copy of the decree, are to be entered in the register of intermediate resumptions, directed to be kept by Section 33; and opposite to such entry, the collector is to insert, in red ink, the number of the page in the periodical register directed to be kept by Section 22, in which the lands may stand recorded; and in the periodical register, he is to specify, in red ink, the number of the page in the register of intermediate resumptions, in which the decree, adjudging the land subject to the payment of revenue, and the other entries

entries above specified, may be inserted. These entries, in the register of intermediate resumptions, are likewise to be inserted in the register of intermediate mutations in landed property paying revenue to Government, directed to be kept by Section 16, Regulation 48, 1793, in order that the land may be recorded in its proper place, as an estate paying revenue to Government, in the next quinquennial register which may be formed agreeably to the abovementioned regulation. The collector is to insert in red ink, opposite to the entries relating to such lands, in the periodical register and the register of intermediate resumptions, the number of the page in the register of intermediate mutations, in which the above required entries may be made; and he is also to specify in red ink, opposite to such entries in the register of intermediate mutations, the number of the page in the periodical register, and the register of intermediate resumptions, in which the entries respecting the lands may be inserted." *Second.* "When land, of the description specified in Section 6, shall be finally adjudged liable to the payment of revenue, the measurement of the land, the name of the pergunnah in which it may be situated, the jumma payable therefrom, the name or names of the proprietor or proprietors, and a copy of the decree, are to be entered in the register of intermediate resumptions; and opposite to such entry, the collector is to insert, in red ink, the number of the page in the periodical register in which the lands may stand recorded; and in the periodical register, he is to insert, in red ink, the number of the page in the register of intermediate resumptions, in which the decree adjudging the land subject to the payment of revenue, and the other entries above specified, may be inserted. The lands mentioned in this section not being liable to the payment of revenue to Government, no entry respecting them is to be made in the register of intermediate mutations, or the quinquennial register directed to be kept by Regulation 48, 1793." *Third.* "When land now subject to the payment of revenue shall be finally adjudged to be exempted from the payment of revenue, the name or names of the village, or villages, or land which may be so exempted,

Record of lands
specified in Section 6, adjudged liable to the payment of revenue, where to be made.

Record of land
now subject to the payment of revenue, but which may be hereafter adjudged exempt from the pay-

ment of revenue,
which is to be
made.

ed, the measurement thereof, the pergunnah in which it may be situated, the name or names of the proprietor or proprietors, the amount of the jumma, and a copy of the decree, are to be entered in the register of intermediate mutations; and the collector is to insert in red ink, opposite to such entry, the number of the page in the last formed quinquennial register, in which such village or villages, or the village or villages in which the lands may be situated, may be recorded, that the lands included in the grant may be omitted in the quinquennial register which may be next formed; and also the number of the page in the register of intermediate resumptions, in which such entries are also to be recorded, that they may be inserted in their proper place in the periodical register of land held exempt from the payment of revenue; and the collector shall insert, in red ink, opposite to such entries, the number of the page in the register of intermediate mutations, from which they may have been taken. The rules in this clause are to be observed likewise, in case the Governor General in Council should deem it proper, from particular circumstances, to renew any former grants, the land included in which may be now subject to the payment of revenue.”* § 17. “All the rules in this regulation respecting lands now held, or that may be claimed to be held, exempt from the payment of revenue, under life grants made previous to the date of the Company’s accession to the dewanny, are to be considered equally applicable to grants made previous to that date for a term only.” § 18. “No part of this regulation is to be considered to annul any grants, for holding land exempt from the payment of revenue, made or confirmed by the late superintendents of the *bazee zemeen dyster* in Bengal, in virtue of the powers vested in them.” § 19. “Nor to extend to *jaghire, allumgha, muddud maash, ayma*, or other grants of land termed *Badshahee*, or royal, and held, or stated to be held,

Rules to apply
to old grants
renewed by
Government.

Section 47.
This regulation
applies to grants
made by the
Government.

Section 48.
Grants made or
confirmed by
the late super-
intendents of
the *bazee zemeen*
dyster in Bengal
are not to be an-
nulled by this
regulation.

Section 49.
This regulation
not to be con-
sidered to extend
to *jaghires*
grants.

* Sections 22, to 46, of Regulation 19, 1793, relate to the registry of lands held exempt from the payment of revenue; and will be mentioned, with other provisions upon the same subject, under a distinct head of *registers of land*.

under a royal firmaun. The rules applicable to such grants are contained in Regulation 37, 1793.”*

THE several rules which have been stated, relative to *lakheraj* lands not held under royal grants, in Bengal, Behar, and Orissa, were extended to lands of the same description in Cuttack, (sub-
jected to the British authority in October 1803,) by Section 24, Regulation 12, 1805; with the following modifications, contained in Sections 18, 19, 20, 21, and 22, of that Regulation.” § 18.

First. “ All grants for holding land exempt from the payment of revenue, made previously to the 14th day of October 1791, corresponding with the 30th Assin 1198 Bengal era, the 3d Cautick 1199 Fussily, the 30th Assin 1199 Willaity, the 3d Cautick 1848 Sumbut, and the 15th Suffer 1207 Higeree, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee, actually and *bonâ fide*, obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date abovementioned; and that the land shall not have been subsequently rendered subject to the payment of revenue, by the officers or the orders of the Government. If it shall be proved to the satisfaction of the court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the date above specified, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.” *Second.* “ All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 14th day of October 1791, and prior to the 14th day of October 1803, by whatever authority, and which may have been confirmed or expressly admitted, antecedently to the 14th day of October 1803, by the authority of the existing Government, shall be deemed valid, provided the grantee, actually and *bonâ fide*, obtained possession of the

Reg. 12, 1805,
Section 24
Stated rules for
Bengal, Behar
and Orissa, ex-
tended to Cu-
tack with mo-
difications.

Section 18.
Grants of alien-
ated land made
previous to the
14th October
1791, declared
valid provided
the grantee ob-
tained posses-
sion before that
date, and has
since held pos-
session without
paying revenue.

Grants made
before the abo-
lition of the
right of no vali-
dity, if posses-
sion was not
obtained prior
to the 14th Oc-
tober 1791, or if the
lands have been
since subjected
to the payment
of revenue.

Grants made
subsequent to
the 14th Octo-
ber 1791, by
whatever autho-
rity, which may
have been con-
firmed or ad-
mitted by the
existing Gov-
ernment prior
to the 14th Oc-
tober 1803, de-
clared valid,
provided the
grantee obtain-
ed possession
previous to that

* Specified in the sequel.

date, and held the lands without being subjected to the payment of revenue until the latter date.

Such grants of no validity, if it is shown that no revenue was paid on the lands, or that the lands were subjected to the payment of revenue prior to the 14th October 1803.

Courts to refer to the Governor General in Council, in the event of their entertaining doubts as to the authority of any officer of Government who may have subjected exempted lands, granted before the 14th October 1803, to the payment of revenue.

land so granted, and held the same exempt from the payment of revenue, previously to the 14th of October 1803, and the land shall not have been afterwards rendered subject to the payment of revenue, by the officers or the orders of the late Government. If it shall be proved, to the satisfaction of the court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the 14th day of October 1803, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of the late Government, the grant shall not be deemed valid." *Third.* "In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 14th day of October 1791, or under a grant made subsequent to that date, but prior to the 14th day of October 1803, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the court, in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the court shall suspend its judgment, and report the circumstances to the Governor General in Council; to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor General in Council, the court is to decide accordingly. In like manner, the Governor General in Council reserves to himself the power of determining, in cases of doubt, whether any officer of the Rajah of Berar, who may have made, confirmed, or admitted grants of land exempted from the payment of revenue, in the name, or on the part of the rajah, was competent to exercise such authority.

authority. The courts of judicature shall accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the Governor General in Council." *Fourth.* "But no part of the three preceding clauses shall be construed to empower the courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 14th day of October 1803, the writing for which may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only, according to the ancient usage of the country." *Fifth.* "Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to, and hold, such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only, or, supposing no such specification to have been made in the writing or the writing not to be forthcoming, or no writing to have been executed, where from the nature and denomination of the grant, it shall be proved to be a life tenure only, according to the ancient usages of the country. Nor to entitle the heirs of any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the court, that the grant, from the nature and denomination of it, is hereditary, according to the ancient usages of the country. But, upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the 14th day of October 1803, the lands shall not be subjected to the payment

Rules respecting
ing g a is for
life only.

Power reserved
to the Gover-
nor General in
Council of de-
termining whe-
ther life grants
to which one
or more succe-
ssions may have
taken place
prior to the

14th October 1803, shall be subjected to the payment of revenue, or not, on the death of the present possessor.

The present possessors of such life grants prohibited from transferring them, or mortgaging the revenue beyond, their own lives.

Exempted lands not exceeding ten begahs, held under grants made prior to the 14th October 1803, and appropriated to the endowment of temples or other such purposes, not to be liable to assessment.

Decision respecting lands held, exceeding ten begahs, reserved to the Governor General in Council.

Courts not to take cognizance of claims to hold exempt land which have paid revenue for twelve years prior to the 14th October 1803, on to the date of preferring the claim, unless the claimant can shew sufficient cause for not having preferred it.

Section 19.
All grants of

ment of revenue under the decree, without the sanction of the Governor General in Council; to whom a copy of the proceedings and decree of the court is so be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to him proper." *Sixth.* "The present possessors of lands held exempt from the payment of revenue, under all life grants declared by the preceding clause not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void." *Seventh.* Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue, any quantity of land, not exceeding ten begahs, held exempt from the payment of revenue, under a grant made prior to the 14th day of October 1803, and *bonâ fide* appropriated as an endowment for temples, or for other religious or charitable purposes. Moreover, if any land so held and appropriated, exceeding ten begahs, shall become liable to assessment, under the rules contained in this regulation, and the judge of the court, before which the suit for the assessment of such land may be depending, or the collector of the district if no judicial suit respecting it be depending, shall be of opinion that the immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the Governor General in Council. *Eighth.* The courts of justice shall not take cognizance of any claim to hold exempt from the payment of revenue, under the present regulation, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 14th of October 1803; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted; unless the claimant can shew good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period." § 19. "All grants for holding land exempt from the

the payment of revenue, which may have been made since the 14th day of October 1803, corresponding with the 29th Assin 1210 Bengal era, the 14th Cautick 1211 Fussily, the 29th Assin 1211 Willaity, the 14th Cautick 1860 Sumbut, and the 27th Jumadee-us-Sany 1218 Higeree, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council, or by an officer empowered to confirm them, are declared invalid." § 20. "If doubts shall be entertained by any court, as to the competency of the authority of any officer to confirm any such grant, the court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council; to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the court, upon receiving the determination of the Governor General in Council, shall decide accordingly." § 21. "The following rule shall be in force in the province of Cuttack, for assessing land declared subject to the payment of revenue to Government, under the three foregoing sections of this regulation." § 22. *First.* "The revenue assessable on all lands, which shall be adjudged or become liable to the payment of revenue, under Sections 18, 19, and 20, of the present regulation, is declared to belong to Government." *Second.* "The revenue payable to Government shall be regulated by the rules prescribed by this regulation, for concluding the settlement of lands paying revenue to Government; and by any subsequent rules which may be prescribed, relative to the assessment of lands subject to the payment of revenue to Government. If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the collector of the district, through the Board of Revenue, for the information of the Governor General in Council, who will determine on the amount of the assessment; and if the proprietor shall refuse to engage for the same, the lands shall be let in farm, or held khaus, under the rules contained in the existing regulations."

And exempt
from revenue
made since the
14th October
1803, and not
confirmed by
the Governor
General in
Council, or an
officer duly au-
thorized, de-
clared invalid.

Section 20.
Courts how to
proceed in the
event of their
doubt, the
authority of any
officer, to con-
firm a grant.

Section 21.
Rule for assess-
ing lands, re-
sumed under the
three foregoing
sections

Section 22.
The revenue as-
sessed on such
lands declared
to belong to
Government.

Assessment to
be regulated by
the rules for the
settlement of
lands paying re-
venue.

Rules in case of
the proprietor
refusing to agree
to such a settle-
ment.

A material alteration in the mode of proceeding for recovering the public dues from lands held free of all assessment, under invalid grants, established by Reg. 5, 1813, in Cuttack and its dependencies.

Preamble to Reg. 5, 1813.

Section 2. Part of Regulations 19, and 37, 1793, rescinded, as far as respects Cuttack and its dependencies.

Section 3. Rule of proceeding to be observed in cases of lands believed to be held exempt from all payment on invalid or illegal tenure.

A MATERIAL alteration in the mode of proceeding for the recovery of the public dues, from lands held free of assessment, under invalid grants, in the district of Cuttack and its dependencies, was established by Regulation 5, 1813. By the provisions which have been cited from Sections 12, 13, 14, and 16, of Regulation 19, 1793, as well as by similar provisions in Section 7, 8, 9, and 11, of Regulation 37, 1793, respecting lands held exempt from assessment under grants alleged to be *Badshahce*, or royal, the claims of Government were made cognizable, in the first instance, by the courts of judicature; and it was declared that, provided the possessors of the lands should register their grants, as required by the above mentioned regulations, the grant should not be resumed “until the title of the grantee, or present possessor, shall have been adjudged invalid by a final decree.” An observance of this principle however, in the ceded and conquered provinces, was found injurious to the public interests. In the preamble to Regulation 5, 1813, it is stated that there was “reason to believe that individuals, availing themselves of the difficulties experienced by the public officers in the establishment of the claims of Government under the existing rules, had in many cases appropriated to themselves the revenue of lands properly appertaining to the state, by which considerable loss has been sustained in the public resources.” Sections 12, 13, 14, and 16, of Regulation 19, 1793, and Sections 7, 8, 9, and 11, of Regulation 37, 1793, “so far as respects the district of Cuttack and the pergunnah of Puttaspore and its dependencies,” were therefore rescinded, (corresponding rescinded, by Section 2, Regulation 5, 1813; and the following with similar provisions before enacted for the upper provinces, as hereafter noticed) were substituted for Cuttack and its dependencies, by the following sections of that regulation.” § 3. “Whenever a collector of revenue shall have reason to believe that any land is held exempt from the public assessment on an invalid or illegal tenure, he shall report the circumstance to the Board of Revenue, or to the member of that Board on deputation in Cuttack; who, should they, or he, be of opinion that proper grounds

exist-

exist for an enquiry, shall direct the collector to call upon the holder of the lands to adduce, within one month from the receipt of the notice, any documentary or other evidence tending to establish his right thereto; at the same time apprizing him, that in default of producing such proof the revenue of the land will be resumed and assessed in the mode prescribed by the regulations."

§ 4. "If it shall appear to the collector, on due consideration of the documents and other evidence, which may be adduced, that the revenue of the land is resumable on the principle of the rules contained in Regulations 19, and 37, 1793, or if the holder of the said lands shall omit to produce any documentary or other evidence within the time prescribed, or shall fail to shew good and sufficient cause for such omission, it shall be, in either case, the duty of the collector to forward the whole of his proceedings on the subject, with his opinion thereon, to the Board of Revenue, or member on deputation; who will decide whether the land shall be deemed liable to the public assessment, or otherwise."

§ 5. "If the collector, after receiving the documents or evidence adduced, shall be of opinion, that the land is not liable to the public assessment, he shall nevertheless transmit the whole of his proceedings in the case, with his opinion thereon, to the Board of Revenue or member on deputation; who will decide the question, and issue the proper orders for admitting or disallowing the claim to hold the lands free of assessment. It shall not however be competent to Government, or its revenue officers, after the question shall have been so decided, to revive the question or disturb the title of the occupant, except on proof, in a court of judicature, of fraud or collusion in the previous enquiry; or except in the event of a transfer of the property or change of proprietor, when a question may in consequence arise as to the hereditary or transferable nature of the tenure." § 6. "Any person who may consider himself aggrieved by the decision which may be passed by the Board of Revenue, or member on deputation, under the rules contained in Sections 4, and 5, of this regulation, shall be at liberty to institute a suit, in the courts of judicature, against Government,

Section 4
When the collector may deem the revenue resumable, or the holder may omit to produce the necessary documents, the proceedings held to be submitted for the decision of the Board of Revenue, or member on deputation, in Cuttack.

Section 5

Same mode of proceeding to be observed when the collector shall be of opinion that the land is not liable to assessment, but after the decision of the Board of Revenue, or member on deputation, the question shall not be a *res revivida*, except in certain cases.

Section 6.
Persons considering themselves aggrieved by the decision passed by the Board of Revenue, or member on deputation, may institute a suit against Government.

ment within six months

Section 7.
Such suits may be instituted without previous reference to Government, and shall be decided by the collectors, under the instructions of the Board of Revenue, or member on deputation. Judgment to be given in favour of the plaintiff when the decision of the revenue authorities may appear erroneous.

Section 8.
Courts not to interfere in the proceedings of the collectors, until a regular trial shall have taken place of the merits of the case.

Section 9.
Persons succeeding to a lakheraje tenure, or by gift, purchase, or other transfer of proprietary right, are hereby required immediately to notify the same to the collector of the land revenue of the district in which the property may be situated, in order that the succession or transfer may be duly registered in his office; and any omission to notify such succession or transfer, for the period of six months after it has occurred, shall subject the offender to such fine as the Board of Revenue, or member on deputation, may judge proper to order to be imposed upon him; not exceeding however the tenth part of the computed annual produce of the lands."

to try the merits of the said decision, provided that such suit be instituted within the period of six months from the date on which it may be passed." § 7. "Such suits may be instituted, without previous reference to the Governor General in Council, against Government; and shall be defended by the collectors, under the instructions of the Board of Revenue, or member on deputation. The courts of judicature, in cases in which they may be of opinion that the decision of the revenue authorities has been passed on erroneous grounds, will of course adjudge the plaintiff to be reinstated in possession of the lands in question, free of assessment; at the same time awarding to him such costs as may be sufficient to reimburse him for the expense to which he may be have been subject; and giving proper directions for the adjustment of the accounts of the collections made from the lands, during the time that they may have been in the charge of the officers of Government." § 8. "But no court of justice shall issue any prohibition or injunction to stay process, previously to the formal decision of the case by the revenue officers; nor any precept or other order to prevent an ejectment consequent to such decision, until a full and complete trial shall have been had of the merits of that decision by a regular suit instituted under this section." § 9. "Persons succeeding to the possession of a lakheraje tenure on the decease of a former occupant, or by gift, purchase, or other transfer of proprietary right, are hereby required immediately to notify the same to the collector of the land revenue of the district in which the property may be situated, in order that the succession or transfer may be duly registered in his office; and any omission to notify such succession or transfer, for the period of six months after it has occurred, shall subject the offender to such fine as the Board of Revenue, or member on deputation, may judge proper to order to be imposed upon him; not exceeding however the tenth part of the computed annual produce of the lands."

Rules contained in Regulation 19, 1793

THE whole of the rules enacted for the lower provinces by Regulation 19, 1793, were re-enacted for the province of Benares,

in Regulation 41, 1795, with the following variations. 1. The 1st July 1775, being the date of the cession of Benares to the Company, is substituted, throughout Regulation 41, 1795, for the 12th August 1765, the date of the dewanny grant for Bengal, Behar, and Orissa. 2. The beginning of the Fussily year 1196, (when a more regular system of management than had before obtained in the zemindarry of Benares was introduced, under the orders of Government, by the British Resident,) is substituted for the 1st December 1790; the date on which a former code of lakheraj regulations was promulgated in the lower provinces. 3. Instead of the provisions in Sections 6 and 7, of Regulation 19, 1793, whereby the revenue, assessable on land not exceeding one hundred begahs, is declared to belong to the person responsible for the discharge of the revenue of the estate, or dependent talook, in which the land may be situated; and the revenue assessable on land exceeding one hundred begahs is declared to belong to Government; the following provisions are contained in Sections 6 and 7, of Regulation 41, 1795." § 6. "The revenue assessable under Section 9, on land not exceeding fifty begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the Fussily year 1196, and which may be adjudged or become liable to the payment of revenue, shall belong to the person or persons responsible for the discharge of the revenue of the estate or putteedarry, in which the land may be situated, notwithstanding any thing said in Section 5, Regulation 27, 1795; and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands, during the continuance of the engagements under which he may pay the revenue of such estate, or putteedarry, when the land may be so adjudged liable to the payment of revenue. If the estate, or putteedarry, shall be held *amammy* or *khaus*, when the lands are declared liable to the payment of revenue, the amount is to be collected by, and paid to, whomsoever the rents

re-created for
Benares, in Re-
gulation 41,
1795, with va-
riations.

1st July 1775,
substituted for
12th August
1765.

And beginning
of the year
1196 for 1st
December
1790.

Sections 6 and 7,
Reg. 41, 1795,
substituted for
Sections 6 and
7, Reg. 19,
1793.

Section 6.
To whom the
revenue assess-
able on lands not
exceeding fifty
begahs alienated
before the 1st
July 1795,
shall belong.

and revenue of the estate or talook may be payable to, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer." § 7. "The revenue assessable under Section 8, on land exceeding fifty begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the Fussily year 1193, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government; but is to be paid through the proprietor of the estate from which the alienation was originally made, under Clause Third, Section 14, Regulation 2, 1795."* 4. Instead of the rules for adjusting the revenue, prescribed in Sections 8 and 9, of Regulation 19, 1793, the following are established by the eighth and ninth sections of Regulation 41, 1795. § 8. *First*. "The amount of the revenue payable from lands specified in Section 7, is to be adjusted according to the following rules." *Second*. "If the grant shall have been made previous to the 31st August 1781, the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rate at which other lands in the pergunnah of a similar description may be assessed. If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation; and to pay such *russud*, or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue, with the sanction of the Governor General in Council, may deem reasonable. The produce of the land shall be ascertained by a survey and measurement; one half of the expence attending which is to be defrayed by the proprietor, in the event of his agreeing to the jumma required of him, and the other moiety by Government; or by such other mode of investigation as the collector, with the sanction of the Board of Revenue, may judge advisable. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm, or held *amauny*. If the proprietor shall

Section 7.
The revenue of
settled lands
exceeding fifty
begahs of the
measurement
prevailing in the
Fussily year
1193, and which
may be adjudged
to belong to
Government.

Section 8 & 9.
Rule for adjusting
the revenue of
lands specified in
Section 7, and
of Regulation 2,
1795.

Section 8.
Rule for adjusting
the revenue of
lands specified in
Section 7, and
of Regulation 2,
1795.
If the grant
shall have been
made previous to
the 31st August
1781.

* Vide 2d art. of engagements for the permanent settlement, page 277.

agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future; but he and his heirs and successors shall hold the land at such fixed revenue for ever." *Third.* "If the grant shall have been made subsequent to the 31st August 1781, the revenue or jumma, to be paid to Government from the land, shall be assessed agreeably to the rules prescribed in Regulation 5, 1795, for forming the settlement of estates paying revenue to Government; and the produce shall be ascertained, and the expence of the investigation defrayed, in the manner specified with regard to the lands in the preceding clause. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held *amray* or *khas*, under the rules for the decennial and quinquennial settlements. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future; but he and his heirs and successors shall hold the land at such fixed revenue for ever." § 9. "The rules in the preceding section are to be held applicable to the lands specified in Section 6, with this difference, that the proprietor, farmer, putteedar, or officer of Government, to whom the revenue may be payable, shall ascertain the produce of the land without subjecting the grantee to any expence; and submit the accounts of it to the collector; who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue; who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount. If the proprietor shall agree to pay the revenue required of him, he, and his heirs, and successors, shall hold the lands as a dependent *puttee*, subject to the payment of such fixed revenue, for ever."

If the grant shall have been made subsequent to the 31st August 1781.

Section 9.
Rule for fixing the amount of the revenue of the lands specified in Section 6.

5. The third clause of Section 3, Regulation 19, 1793, relative to grants of land made by the provincial councils in the lower provinces, a clause in Section 14, respecting suits instituted by the assistants to the collectors under the lakheraj regulations of 1st December 1790, and Section 18, concerning grants made or confirmed by the superintendants of the *bazze ze neen duffur* in Ben-

Parts of Regulation 19, 1793, not applicable to Benares, and omitted in Regulation 41, 1795.

Further provisions for Benares in Regulations 2, and 22, 1795.

Reg. 2, 1795.
Sec. 2.
Relating to applications to Resident for grants of land in the vicinity of Benares, exempt from the payment of revenue, for gardens, and places of worship.

Reg. 22, 1795.
Sec. 71.
Discontinue fines on new settlers and on the sale of house in the mart of Mirzapoor.

Nature of tenement held by the Mahant or the *Engreze mohallah* at Mirzapoor.

Rules cited from Regulation 19, 1793, re-enacted with modification by the Newab Vizier, in Regulation 31, 1803, and extended to provinces ceded by Doulut Rao Sindhera, and the Peshwa, by Section 21, Regulation 8, 1805.

gal, not being applicable to Benares, are, of course, omitted in the regulation for that province. The following provisions in Section 28, Regulation 2, 1795, and Section 71, Regulation 22, 1795, may however be noticed in this place. In the former regulation it is stated that "inconveniencies having been experienced, from applications made to the Resident for grants, exempting from the payment of revenue spots of ground in the vicinity of the city of Benares, on their being purchased by the native princes of India, or by wealthy natives, to convert into gardens or places of religious worship, the Governor General in Council determined, on the 28th July 1794, that no such grants should be made by the Resident without the sanction of Government." Section 71, Regulation 22, 1795, consists of two clauses to the following effect. *First*. "It appearing to have been customary, under the native government, to levy a tax or fine on all new settlers, as well as to receive one-fourth of the price of all houses sold, in the town or mart of Mirzapoor an order was issued to the judge on the 20th of April 1783, to discontinue these exactions." *Second*. "The mart of Mirzapoor having increased considerably in extent and population, an entire new and extensive quarter has been added to it, under the name of *Engreze mohallah*. For the ground in this mohallah, on which the houses are built, *bukshishnamas* or grants, on the payment of a small fine of entry to Government, were issued by the Resident, with the approbation of the Governor General in Council, exempting these tenements from all ground rent in time to come."

THE rules which have been cited from Regulation 19, 1793, were re-enacted in Regulation 31, 1803, for the provinces ceded by the Newab Vizier in November 1801; and extended by Section 21, Regulation 3, 1805, to the provinces ceded in December 1803, by DOULUT RAO SINDHERA and the PESHWA; with the following modifications. 1. Instead of Sections 2 and 3, of Regulation 19, 1793, the undermentioned rules are enacted in Sections 2 and 3, of Regulation 31, 1803; and the dates therein specified (viz. 10th

November

November 1789, commencing a period of twelve years, antecedent to the Newab Vizeer's cession to the Company, and 1st January 1801, the beginning of the year in which the cession was made,) are changed to the 1st January 1792, and 1st January 1803, by Section 21, Regulation 8, 1805, for the provinces ceded by DOWLUT RAO and the Peshwa." § 2. *First*. "All grants for holding land exempt from the payment of revenue, made previously to the 10th day of November 1789, corresponding with the 15th day of Kautick 1199 Fussily, or the 21st day of Suffer 1201, Iligeree, by whatever authority, and whether by a writing, or without a writing, shall be deemed valid, provided that the grantee, actually and *bonâ fide*, obtained possession of the land so granted, and held it exempt from the payment of revenue, previously to the date abovementioned; and that the land shall not have been subsequently rendered subject to the payment of revenue, by the officers, or the orders, of the Government. If it shall be proved to the satisfaction of the court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue, previously to the date above specified, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers, or the orders, of Government, the grant shall not be deemed valid." *Second*. "All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 10th day of November 1789, and prior to the 1st day of January 1801, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 1st day of January 1801, by the authority of the existing Government, shall be deemed valid, provided the grantee, actually and *bonâ fide*, obtained possession of the land so granted, and held the same exempt from the payment of revenue, previously to the 1st of January 1801; and the land shall not have been afterwards rendered subject to the payment of revenue, by the officers, or the orders, of Government. If it shall be proved, to the satisfaction of the court, that the grantee did not obtain possession of the land

Regulation 8, 1805, Sec. 21, Cl. 1. Grants of alienated land made previous to the 10th of November 1789, declared valid, provided the grantee obtained possession before that date, and has since held possession without paying revenue.

Grants made before the date above specified, or previously, if possession was not obtained prior thereto, or the lands have been since subjected to the payment of revenue.

Grants made subsequently to the 10th November 1789, and prior to the 1st January 1801, by whatever authority, to be deemed valid, if confirmed or admitted by the existing Government; provided possession was obtained prior to the date last mentioned, and the land shall not have been rendered subject to the payment of revenue.

so granted, or did not hold it exempt from the payment of revenue, previously to the 1st January 1801, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers, or the orders, of Government, the grant shall not be deemed valid." *Third.* "In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 10th day of November 1789, or under a grant made subsequent to that date, but prior to the 1st day of January 1801, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the court shall suspend its judgment, and report the circumstances to the Governor General in Council; to whom a power is reserved of determining, whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor General in Council, the court is to decide accordingly. In like manner, the Governor General in Council reserves to himself the power of determining, in cases of doubt, whether any officer of the Newab Vizier who may have made, confirmed, or admitted grants of land exempt from the payment of revenue, in the name, or on the part of the Newab, was competent to exercise such authority. The courts of judicature will accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the Governor General in Council." *Fourth.* "But no part of the three preceding clauses is to be construed to empower the courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue,

It is to refer to the Governor General in Council, in the event of their entering doubts as to the authority of any officer of Government, who may have subjected exempt land to the payment of revenue.

The Governor General in Council reserves to himself the power of determining, in cases of doubt, as to the authority of any officer of the Newab Vizier who may have made, confirmed, or admitted grants of land exempt from the payment of revenue.

In such cases, the courts will suspend their judgment, and report the circumstances to the Governor General in Council.

No persons, not being the original grantees, to be entitled to

revenue, under any grant made previously to the 1st day of January 1801, the writing for which may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only, according to the antient usage of the country." *Fifth.* "Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life tenure only, according to the antient usages of the country. Nor to entitle the heirs of any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify, whether it was to be considered hereditary or otherwise, unless it shall be proved, to the satisfaction of the court, that the grant, from the nature and denomination of it, is hereditary, according to the antient usages of the country. But, upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this clause, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the 1st day of January 1801, the lands shall not be subjected to the payment of revenue under the decree, without the sanction of the Governor General in Council; to whom a copy of the proceedings and decree of the court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to him proper." *Sixth.* "The present possessors of lands, held exempt from the payment of revenue, under all life grants declared by the preceding clause

hold exempt from the payment of revenue, lands now subject to the payment of revenue, under grants for life made previous to the 1st of January 1801.

Nor to entitle the heirs of persons now possessing exempted lands, under any life grants, when made, to hold such lands exempt from the payment of revenue upon the death of the present possessor.

Power reserved to the Governor General in Council, of determining whether the grants, to which one or more successions of whatever nature may have taken place prior to the 1st of January, 1801, shall be subjected to the payment of revenue or not, on the death of the present possessor.

The present possessors of all life grants prohibited from transferring them, or mortgaging the

revenue of them
beyond their
own lives.

Any grant of
land, the ex-
ceeding ten be-
gahs, the re-
venue of which
is to be paid
under a grant
made prior to
the 1st day of
January 1801,
and which is
not subject to
the payment of
revenue.

If land so held
or appropriated,
except in cases
where it is con-
sidered to be
the payment of
revenue under
this regulation,
the immediate
assessment of
which would be
productive of
distress, the re-
sult of the cir-
cumstances of
the case, to be
reported to the
Governor Gen-
eral in Coun-
cil.

Courts not to
take cognizance
of any claim to
hold land ex-
empt from the
payment of re-
venue, or to the
land which may
have been sub-
jected to the
payment of re-
venue for the pe-
riod of twelve
years prior to
the 10th of No-
vember 1801, or
which may have
been subjected
to the payment
of revenue for
the twelve years
preceding the
date on which
the claim may
be instituted,
unless the claim-
ant can shew
good and suffi-
cient cause for
not having pre-
ferred the claim
within that pe-
riod.

The courts
are not to
take cognizance
of any claim to
hold land ex-
empt from the
payment of re-
venue, or to the
land which may
have been sub-
jected to the
payment of re-
venue for the pe-
riod of twelve
years prior to
the 10th of No-
vember 1801, or
which may have
been subjected
to the payment
of revenue for
the twelve years
preceding the
date on which
the claim may
be instituted,
unless the claim-
ant can shew
good and suffi-
cient cause for
not having pre-
ferred the claim
within that pe-
riod.

not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void." *Seventh.* "Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land, not exceeding ten begahs, held exempt from the payment of revenue under a grant made prior to the 1st day of January 1801, and *bona fide* appropriated as an endowment for temples, or for other religious or charitable purposes. Moreover, if any land so held and appropriated, exceeding ten begahs, shall become liable to assessment under the rules contained in this regulation, and the judge of the court, before which the suit for the assessment of such land may be depending, or the collector of the district, if no judicial suit respecting it be depending, shall be of opinion that the immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the Governor General in Council." *Eighth.* "The courts of justice shall not take cognizance of any claim to hold exempt from the payment of revenue, either under the present regulation, or under Regulation 36, 1803, land which may have been subjected to the payment of revenue for the period of twelve years, prior to the 10th of November 1801; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can shew good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period, as required by Clause Third, Section 18, Regulation 2, 1803." § 3. *First.* "All grants for holding land exempt from the payment of revenue, which may have been made since the 1st day of January 1801, corresponding with the 19th Poose 1207 Bengal era, the 1st Maung 1208 Fussily, and the 19th Poose 1208 Willaity, by any other authority than that of the British Government, and which may not have been confirmed by the Governor General in Council, or

by an officer empowered to confirm them, are declared invalid.”

Second. “If doubts shall be entertained by any court as to the competency of the authority of any officer to confirm any such grant, the court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally, whether the officer possessed competent authority to confirm the grant, or otherwise; and the court, upon receiving the determination of the Governor General in Council, shall decide accordingly.” 2. The following Sections (viz. 4, 5, and 6) of Regulation 31, 1803, are substituted for Sections 4, 5, 6, 7, 8, 9, 10, and 11, of Regulation 19, 1793.”

Courts law to proceed in the event of the entering into any doubt of the authority of the officer to confirm the grant.

Sections 4, 5, and 6, of Regulation 31, 1803, substituted for Sections 4 to 11 of Regulation 19, 1793.

§ 4. “This regulation, as far as regards lands alienated previously to the promulgation of it, respects only the question, whether they are liable to the payment of revenue or otherwise. Every dispute or claim regarding the propriety right in lands alienated previously to the promulgation of this regulation, and which, in conformity thereto, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the courts of adawlut, in the event of any dispute or claim arising respecting it, between the grantee and the grantor, or their respective heirs, or successors. The grantees, or the present possessors, until dispossessed by a decree of the adawlut, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates subject to the payment of revenue; and they are to execute engagements for the revenue with which their lands may be declared chargeable, under the rule stated in Section 5, of this regulation. If the proprietary right in the land shall be transferred by the decision of the adawlut, the person succeeding thereto is in like manner to be responsible for the payment of the revenue assessed, or chargeable, thereon.” § 5. *First.* “The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue, under the present regulation, is declared to belong to Government.” *Second.* “The revenue payable to Government shall be regulated by the rules prescribed by

Section 4. Questions regarding the propriety of lands alienated before the promulgation of this regulation, and adjudged liable to the payment of revenue, to be determined in the adawlut, this regulation, with respect to such lands, relating only to the revenue.

Section 5. The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue under this regulation, is declared to belong to Government.

Under what
rules lands ren-
dered liable to
the payment of
revenue by this
regulation are to
be assessed.

Section 6.
Grants made
since the pro-
mulgation of
this regulation
declared null
and void.

Regulation 27, 1803, for concluding the settlement of lands paying revenue to Government; and by any subsequent rules which may be prescribed, relative to the assessment of lands subject to the payment of revenue to Government. If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the collector of the district, through the Board of Revenue, for the information of the Governor General in Council; who will determine on the amount of the assessment: and if the proprietor shall refuse to engage for the same, the lands shall be let in farm, or held khaus, under the rules contained in the existing regulations."

§ 6. "All grants for holding land exempt from the payment of revenue, that may be made after the promulgation of this regulation, by any other authority than that of the Governor General in Council, are declared null and void; and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil, or the rents of it. Every person who now possesses, or may succeed to, the proprietary right in any estate, or dependent talook, or who now holds, or may hereafter hold, any estate or dependent talook in farm of Government, or of the proprietor, or any other person, and every officer of Government, appointed to make the collections from any estate or talook held khaus, is authorized and required to collect the rents from such lands at the rates of the pergunnah, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or talook in which it may be situated, without making previous application to a court of judicature, or sending previous or subsequent notice of the dispossession, or annexation, to any officer of Government; nor shall any such proprietor, farmer, or dependent talookdar, be liable to an increase of assessment on account of such grants, which he may resume and annul, during the term of the engagements that he may be under for the payment of the revenue of such estate or talook when the grant may be resumed and annulled. The managers of the estates of disqualified proprietors, and of joint undivided estates, are authorized and

Managers of
estates to exer-
cise, on behalf

and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this section." 3. Instead of the provisions in Sections 12, 13, 14, and 16, of Regulation 19, 1793, which were re-enacted for the ceded provinces, in Sections 7, 8, 9, and 11, of Regulation 31, 1803, and extended to the conquered provinces by Regulation 8, 1805, the following rules were substituted for the whole of the upper provinces by Sections 3 to 10, of Regulation 8, 1811, on the grounds already stated for similar provisions in Cuttack and its dependencies. § 3. "Whenever a collector of revenue shall have reason to believe that any land is held exempt from the public assessment on an invalid or illegal tenure, he shall report the circumstance to the Board of Commissioners, who, should they be of opinion that proper grounds exist for an enquiry, shall direct the collector to call upon the holder of the lands to adduce, within one month from the receipt of the notice, any documentary or other evidence tending to establish his right thereto; at the same time apprizing him, that in default of producing such proof, the revenue of the land will be resumed and assessed in the mode prescribed by the regulations." § 4. "If it shall appear to the collector, on due consideration of the documents and other evidence which may be adduced, that the revenue of the land is resumable, on the principle of the rules contained in Regulations 31 and 36, 1803, or if the holder of the said lands shall omit to produce any documentary or other evidence within the time prescribed, or shall fail to shew good and sufficient cause for such omission, it shall be, in either case, the duty of the collector to forward the whole of his proceedings on the subject, with his opinion thereon, to the Board of Commissioners, who will decide whether the land shall be deemed liable to the public assessment, or otherwise." § 5. "If the collector, after receiving the documents or evidence adduced, shall be of opinion, that the land is not liable to the public assessment, he shall nevertheless transmit the whole of his proceedings in the case, with his opinion thereon, to the Board of Commissioners, who will decide the question, and issue the proper orders for admitting or disallowing the claim to hold

of the proprietors, the powers vested in proprietors by this section.
Sections 7, 8, 9, and 11, of Reg. 31, 1803, re-enacted by Section 2, R. G. 8, 1811, and new rules substituted by the following sections of that regulation.

Section 3.
Rule of procedure to be observed in cases of lands believed to be held exempt from assessment on invalid or illegal tenures.

Section 4.
When the collector may deem the revenue resumable, or the holder omit to produce the necessary documents the proceedings shall be submitted for the decision of the Board of Commissioners.

Section 5.
Same mode of proceeding to be observed, when the collector shall be of opinion that the land is not liable to assessment, but after the decision of the Board of Commissioners.

The question shall not be again revived, except in certain cases.

Section 6.
Persons considering themselves aggrieved by the decision passed by the Board of Commissioners, may institute a suit against Government within six months.

Section 7.
Such suits may be instituted without previous reference to Government, and shall be defended by the collectors under the instructions of the Board of Commissioners. Judgment to be given in favor of the plaintiff, when the decision of the Board of Commissioners may appear erroneous.

Section 8.
Courts not to interfere in the proceedings of the collectors until a regular trial shall have taken place of the merits of the case.

Section 9.
Persons succeeding to a lakheraj tenure, by death or other transfer of the pro-

hold the lands free of assessment. It shall not however be competent to Government, or its revenue officers, after the question shall have been so decided, to revive the question or disturb the title of the occupant, except on proof in a court of judicature, of fraud or collusion in the previous enquiry; or except in the event of a transfer of the property or change of the proprietor, when a question may in consequence arise as to the hereditary or transferable nature of the tenure." § 6. "Any person who may consider himself aggrieved by the decision which may be passed by the Board of Commissioners, under the rules contained in Sections 4 and 5, of this regulation, shall be at liberty to institute a suit in the courts of judicature, against Government, to try the merits of the said decision; provided that such suit be instituted within the period of six months from the date on which it may be passed." § 7. "Such suits may be instituted, without reference to the Governor General in Council, against Government, and shall be defended by the collectors, under the instructions of the Board of Commissioners. The courts of judicature, in cases in which they may be of opinion that the decision of the Board of Commissioners has been passed on erroneous grounds, will of course adjudge the plaintiff to be re-instated in possession of the lands in question free of assessment; at the same time awarding to him such costs as may be sufficient to reimburse him for the expense to which he may have been subject; and giving proper directions for the adjustment of the accounts of the collections made from the lands, during the time that they may have been in the charge of the officers of Government. § 8. "But no court of justice shall issue any prohibition, or injunction to stay process, previously to the formal decision of the case by the revenue officers; nor any precept or other order to prevent an ejectment consequent to such decision; until a full and complete trial shall have been had of the merits of that decision by a regular suit instituted under this section." § 9. "Persons succeeding to the possession of a lakheraj tenure on the decease of a former occupant, or by gift, purchase, or other transfer of proprietary

proprietary right, are hereby required immediately to notify the same to the collector of the land revenue of the district in which the property may be situated, in order that the succession or transfer may be duly registered in his office; and any omission to notify such succession or transfer for the period of six months after it has occurred, shall subject the offender to such fine as the Board of Commissioners may judge proper to order to be imposed upon him; not exceeding however the tenth part of the computed annual produce of the lands." § 10. "Persons holding one or more entire village or villages, of which they are not the proprietors, free of assessment, are hereby declared subject to the payment of the same nankar or malikana to the zemindar, or other actual proprietor of the soil of such entire village or villages, (if the settlement for the revenue shall not be concluded with the proprietor,) as such zemindars or other actual proprietors would be entitled to receive under the existing regulations, if the land were malgoozaree; and the zemindar or other actual proprietor of every entire village thus held free of assessment, shall be entitled to recover such nankar, or malikana, by suit in the courts of judicature."

proprietary right,
it all notify the
same to the
collector with-
in six months,
under pain of
fine to a certain
extent.

Section 10.
Persons hold-
ing lands (of
which they are
not proprietors)
free of assess-
ment declared
liable to the
payment of
nankar or malik-
ana.

THE concluding sections of Regulations 19, 1793, 41, 1795, and 31, 1803, provide that these regulations shall not be considered to extend to jageer, altung'ha, muddudmash, ayma, or other grants of land termed *Badshahee*, or royal; and held, or stated to be held, under a royal firman. The rules applicable to such grants are contained in Regulation 37, 1793 for Bengal, Behar, and Orissa, (extended with modifications to Cuttack, by Regulation 12, 1805;) in Regulation 42, 1795, for the province of Benares; and in Regulation 33, 1803, for the provinces ceded by the Newab Vizeer; extended (with alterations) to the provinces ceded by DOULUT RAJO SINDHEEA, and the Peshwa, by Section 24, Regulation 8, 1805. Several of the provisions in these regulations correspond with those which have been stated, respecting lands held exempt from assessment under grants not of the description

Regulations 19,
1793, 41, 1795,
and 31, 1803,
which have
been cited, do
not extend to
grants termed
Badshahee, or
royal.

Rules applicable
to such grants
contained in
Regulation 37,
1793, 42,
1795, and 36,
1803.

Reasons for ex-
hibiting, at
length, the rules
prescribed by
Regulation 37,
1793, except

such as relate to
a registry of the
lands referred
to.

termed *Badshahee*. Yet for the purpose of exhibiting a connected view of the whole of the rules prescribed in Regulation 37, 1793, “ for trying the validity of the titles of persons holding, or claiming to hold, *altumga*, *jageer*, and other lands exempt from the payment of public revenue, under grants termed *Badshahee*, or royal; for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands, the grants for which may expire, or be held invalid,” the following sections of that regulation are inserted at length; and such parts only as relate to a registry of the lands in question are reserved for a distinct head. § 2. *First*. “ *Altumga*, *jageer*, *ayma*, *muddudmaush*, or other *Badshahee* grants, for holding land exempt from the payment of revenue, made previous to the 12th August 1765, the date of the Company’s accession to the dewanny, shall be deemed valid, provided the grantee, actually and *bonâ fide* obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government. If it shall be proved to the satisfaction of the court, that the grantee did not obtain possession of the land so granted previous to the 12th August 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers, or the orders of Government, the grant shall not be deemed valid.” *Second*, “ In the event however of a claim being preferred by any person to hold land exempt from the payment of revenue, under a *Badshahee* grant made previous to the date of the Company’s accession to the dewanny, and of its being proved to the satisfaction of the court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the court shall entertain doubts as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the court shall sus-

pend

Regulation 37,
§ 2. Sect. 1. a.
Badshahee
grants made
previous to the
12th Aug. 1765,
declared
valid, provided
the grantee be-
tore the date
of the Company’s
accession to the
dewanny.

Grants made be-
fore the date of
the Company’s
accession to the
dewanny, and
prior to the 12th
Aug. 1765, or
the grantee has
since resumed
possession by au-
thority.

Courts to refer
to the Governor
General in
Council, in the
event of their
entertaining
doubts as to the
authority of any
officer of Gov-
ernment, who
may have re-
sumed *Badshahee*
grants of land
made before the
dewanny.

pend its judgment, and report the circumstances to the Governor General in Council; to whom a power is reserved of determining whether such officer was or was not competent to resume the grant; and upon receiving the determination of the Governor General in Council, the court is to decide accordingly. No such claim however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any zillah or city court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years, and proceeded in it, as required by Section 11, Regulation 3, 1793." *Third.* "But no part of the two preceding clauses is to be construed to empower the courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue, under a jageer, or other grant made previous to the Company's accession to the dewanny, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only, according to the antient usages of the country." *Fourth.* "Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a jageer, or other Badshaheee life grant, made previous to the dewanny, to succeed to, and hold such land exempt from the payment of revenue, upon the demise of the present possessor, where the grant may expressly specify it to have been given for the life of the grantee only; or, supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life tenure only, according to the antient usages of the country." *Fifth.* "The present possessors of lands, now exempt from the payment of revenue, under such jageer or other life grants made previous to the dewanny, declared by the preceding

Claims to hold exempt from revenue under Badshahee grants lands that have paid revenue for twelve years, not to be heard.

Exception.

Persons not being the original grantees, nor to be entitled to hold lands exempt from the payment of revenue.

Nor to entitle the heirs of persons now possessing exempted lands, under life grants made previous to the dewanny, to hold such lands exempt from the payment of revenue upon the death of the present possessor.

The present possessors of such life grants, prohibited from transferring them, or mortgaging the revenue.

one of them be-
yond their own
lives.

Section 3
All grants made
or confirmed
since the de-
wanny, ex-
cepting by the au-
thority of the
Government, or
its officer duly
empowered,
declared in-
valid.

Courts to
proceed in the
event of a
doubt as to the
authority of the
officer con-
firming the grant.

Section 4
Questions re-
garding the
proprietary
rights in lands
included in
grants to be
determined in
the adawlut.

Section 5.
Collectors to
attach the reve-
nue of lands in
escheated
grants.

Section 6
Lands included
in resumed
grants to be as-
sessed, and the
revenue to be
paid by the pro-
prietor, accord-
ing to the re-
gulations for
the decennial
settlement.

ceding clause not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives; and all such transfers and mortgages, which have been or may be made, are declared illegal and void." § 3. *First.* "All Bad-shahce grants for holding land exempt from the payment of revenue, which may have been made since the 12th August 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid." *Second.* "If doubts shall be entertained by any court as to the competency of the authority of any officer to confirm any such grant, the court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council; to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the court, upon receiving the determination of the Governor General in Council, shall decide accordingly." § 4. "It is to be understood that this regulation respects only the Government proportion of the revenue arising from lands held, or claimed to be held, under Bad-shahce grants; and whether Government is entitled to resume or retain such revenue or otherwise. Every dispute or claim regarding the zemindarry, or proprietary right, in lands included in any grant, is to be considered as a matter of a private nature between the contending parties, and is to be determined in the dewanny adawlut." § 5. "When a jageer, or other life grant shall escheat to Government, the collector is immediately to attach the revenue of the lands, and report the circumstance to the Board of Revenue; who are to obtain the orders of the Governor General in Council regarding the resumption of the grant." § 6. "When any Bad-shahce grant shall be resumed, or expire, or escheat to Government, the revenue to be paid to Government, from the lands included in it, shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation 8, 1793, with the person possess-

ing

ing the zemindarry or proprietary right in the lands, whoever he may be. If the proprietor shall refuse to pay the jumma demanded of him, the land shall be held *khans*, or let in farm, as directed in that Regulation." § 7. "It is to be the duty of the collectors, after receiving the sanction of the Board of Revenue for that purpose, as directed in Section 9, to prosecute in the court of dewanny adawlut on behalf of Government, for the resumption of grants that are declared invalid by this regulation; and no lapse of time shall be considered as a bar to the resumption of such grants." § 8. "The collectors shall receive a commission of twenty-five per cent on the amount of the jumma which may be assessed on the land contained in grants which may be resumed in consequence of suits which may be prosecuted by them to a final judgment. Collectors who may institute suits for the recovery of the public dues from land, but who shall not prosecute them to a final decision whilst they hold the office of collector of the zillah in which the lands may be situated, shall not be entitled to any commission in the event of the lands being adjudged liable to the payment of revenue; but the commission shall be paid to the collectors who may prosecute the suit to a final judgment as above provided, unless the Governor General in Council shall deem it expedient, upon a consideration of the circumstances of the case, to give the whole or any part of the commission to the collectors by whom the suits may have been instituted, or to collector who may have succeeded the collectors who instituted the suits, and preceded the collector by whom they may have been prosecuted to a final decision." § 9. "When a collector shall have reason to believe that land is held by any person exempt from the payment of revenue under a grant that is declared invalid by this regulation, he is to state such information as he may possess, or be able to procure respecting it, to the Board of Revenue; who, if there shall appear to them ground to believe that the grant is invalid, are empowered to order the collector to institute a suit for the resumption of it. The Board of Revenue are likewise empowered, previous to ordering the institution of the suit, to authorize the

Section 7.
Collectors to
prosecute for
the resumption
of grants which
are declared in-
valid.

No lapse of
time to be a
bar to the re-
sumption.

Section 8.
Commission of
twenty-five per
cent to be re-
ceived by col-
lectors on the
jumma of lands
resumed in
consequence of
suits prosecuted
by them to a
final decision.

Collectors in-
stitute suits,
but not to
prosecute to
final judgment,
not to receive
commission, ex-
cept in the
cases therein pre-
scribed.

Section 9.
Collector to re-
port to the
Board of Re-
venue whenever
he may receive
information of
land claimed
as an *amara*.

Board, if they
see reason,
empowered to
order the col-
lector to institute
the resumption
of the grant.

May require the
petitioner to
show that he
is entitled to
the land.

collector to demand from the grantee or person in possession, by a written requisition under his official seal and signature, and expressly specifying it to be made pursuant to the orders of the Board, to deliver into his custody, by a time to be limited in the requisition, all the writings in virtue of which he may possess the lands, or under which they may have been held exempt from the payment of revenue. The collector is to give a receipt for the writings. If the grantee or possessor shall omit or refuse to deliver the writings within the limited time, the Board of Revenue are empowered to order the collector to issue a second and similar requisition to him to deliver the writings by a specific day; and shall at the same time impose such daily fine on the grantee or possessor as they may judge proper, upon a consideration of his situation and circumstances in life; and the amount of the fine shall be levied by the process prescribed for the recovery of arrears of revenue; and if the grantee, or person in possession, shall not deliver up the writings by the time prescribed in the second requisition, the Board of Revenue are empowered to attach the lands, and collect the rents on account of Government, until the grantee, or person in possession, shall produce the writings, or the grant shall be adjudged invalid. If the grantee, or person in possession, shall deny that he has any writings, or shall not deliver up all the writings, and upon a suit being instituted against him for the recovery of the public dues, he shall in the first case produce any writing, and in the second, any writing or writings besides such as he may have delivered to the collector, the writing or writings so produced shall not be received by the court in evidence; nor shall they be allowed to have any weight in the decision, any more than if they had never existed; unless, in the second case, he shall show good cause to the satisfaction of the court for not having produced the writings; and shall prove that he assigned such cause in answer to the collector's requisition. But no collector is to require any person holding lands under any grant to produce his title deeds or writings, (expecting for the registry of them by the publication specified in Section 20,) or to institute a

suit

And may fine him on his refusing to deliver up the writings upon the first requisition,

And levy the amount in the same manner as a years of revenue.

And attach the lands upon a not complying with the second requisition.

Persons denying that they have any writings, not to be allowed to avail themselves of any writings they may afterwards produce.

Qualification of the rule.

Collectors prohibited requiring from the grantee their title deeds or right to sue a suit against them, without the previous sanction of the Board of Revenue.

suit for the resumption of the grant, without obtaining the previous orders of the Board of Revenue for that purpose. The Board of Revenue are empowered, without receiving any previous report from the collectors, to order suits to be instituted for the resumption of grants, which they may have ground to believe are invalid." § 10. "Any person having a claim to hold lands paying revenue, exempt from the payment of revenue under a Badshahee grant, must institute his claim against Government, who alone can be the defendant in such suits, in the dewanny adawlut of the zillah, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of revenue under grants not of the description of those termed Badshahee, in virtue of Regulation 19, 1793. The collectors of the revenue are to defend all such suits as may be instituted against Government; and such suits, and the suits which the Board of Revenue may direct the collector to institute, are to be defended or prosecuted by the vakeel of Government, under the instructions of the collector; and in the event of Government being cast, either wholly or in part, or if the collector shall be dissatisfied with the decree in any respect, all the rules contained in Section 30, Regulation 11, 1793, and the other sections in that regulation, respecting decisions given against a collector in any zillah court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference, that the suit, from the commencement of it, is to be defended or carried on at the expense of Government; and in the event of the Board of Revenue not deeming it proper to order an appeal from the decision of the zillah court to be preferred to the provincial court of appeal, or from the decision of the provincial court to the Sudder Dewanny Adawlut, (in the event of their ordering the cause to be appealed to the provincial court, and of it's being given against them therein) they are to report their reasons, in both cases, for not preferring the appeal, to the Governor General in Council;

who

Board of Revenue may order suits to be instituted without any previous report from the collector.

Section 10. Persons claiming to hold lands paying revenue, exempt from revenue under Badshahee grants, to sue Government.

Collector to defend the suit.

Vakeel of Government to defend or prosecute the suit, if instituted against, or by, Government.

Rules to be observed by the collector in the event of Government being cast wholly, or in part.

Section 11.
Courts award
adjudicate costs
and damages in
cases of pro-
secutions being
instituted on
insufficient
grounds under
this regulation.

Section 12.
Grants forged
or altered in
any respect, or
antedated, are
declared void.

Section 13.
Persons con-
cerned in the
fraud liable to
a criminal pro-
secution.

Section 14.
Provisions of
law relating to
the payment
of revenue from
the lands
granted shall
not apply to
lands exempted.

Section 15.
Grants under
which certain
grants are to be
transferred.

who will direct the cause to be appealed, or not, in either case, as may appear to him proper." § 11. "If a suit shall be brought before a court of judicature by a collector on the part of Government for the resumption of a grant, or by any individual against Government to hold exempt from the payment of revenue under a grant lands paying revenue to Government, and it shall appear to the court that the suit was instituted upon insufficient grounds, it shall award against the prosecutor, in favor of the party sued, such costs and damages as may appear to it equitable upon a consideration of the circumstances of the case." § 12. "If it shall appear to any court of judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased, and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination, or the terms of the tenure in the original grant, have been erased or altered, or that the date of the grant has been antedated, the grant shall be adjudged null and void." § 13. "Any person by whom any of the frauds specified in the preceding section may appear to have been committed, or who may have been concerned therein, shall, provided the court is of opinion that there are sufficient grounds for a criminal prosecution, be committed or held to bail, (according to the circumstances of the case.) to take his trial before the court of circuit." § 14. "When a grant may be adjudged invalid, and the lands shall be subjected to the payment of revenue, the former holder of the grant shall not be required to refund any part of the collections which he may have made from the lands previous to the date of the first decree adjudging the land subject to the payment of revenue, whether it be given in the zillah court, the provincial court of appeal, or the Sudder Dewanny Adawlut. But he shall be responsible for the collections from the lands from the date of such first decree, adjudging the land subject to the payment of revenue." § 15. "Altumga, ayma, and muddudmaush grants are to be considered as hereditary tenures. These and other grants, which from the terms or nature of them may be hereditary, and are de-
clared

clared valid by this regulation, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferrible by gift, sale, or otherwise, and all persons succeeding to such grants by whatever mode, are required to register their names in the office of the collector, within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under this regulation. Jaggers are to be considered as life tenures only, and with all other life tenures are to expire with the life of the grantee, unless otherwise expressed in the grant." § 16. *First.* "When any grant shall be adjudged invalid, or shall expire or escheat to Government, the name or names of the mehals and villages, or lands, included in the grant, and the measurement thereof, the pergunnah in which the lands may be situated, the amount of the public revenue assessed thereon, the name or names of the proprietor or proprietors, and a copy of the decree, are to be entered in the *register of intermediate resumptions and occurrences*, directed to be kept by Section 28; and opposite to such entry the collector is to insert, in red ink, the number of the page in the *periodical register* directed to be kept by Section 17, in which the lands may stand recorded; and in the periodical register he is to specify, in red ink, the number of the page in the register of intermediate resumptions and occurrences, in which the decree, adjudging the land subject to the payment of revenue, and the other entries above specified, may be inserted. These entries, in the register of intermediate resumptions and occurrences, are likewise to be inserted in the *register of intermediate mutations in landed property paying revenue to Government*, directed to be kept by Section 16, Regulation 48, 1793, in order that the land may be recorded in its proper place, as an estate paying revenue to

Jaggers to be considered as life tenures, unless the grant shall express otherwise.

Section 16. Record of lands included in grants that may become liable to the payment of revenue.

Government, in the next *quinquennial register* which may be formed agreeably to the abovementioned regulation. The collector is to insert, in red ink, opposite to the entries relating to such lands, in the periodical register, and the register of intermediate resumptions and occurrences, the number of the page in the register of intermediate mutations, in which the above required entries may be made; and he is also to specify, in red ink, opposite to such entries in the register of intermediate mutations, the number of the page in the periodical register, and the register of intermediate resumptions and occurrences, in which such entries respecting the land may be inserted. *Second.* When land, now subject to the payment of revenue, shall be finally adjudged, on the claim of any individual, to be exempted from the payment of revenue, under any grant, or when the Governor General in Council shall make any new grant, the name or names of the meahals, villages, or lands, which may be so adjudged exempted, or granted, the measurement thereof, the pergunnah in which they may be situated, the name or names of the grantee, the amount of the revenue before assessed thereon, and a copy of the decree or grant, are to be entered in the register of intermediate mutations, directed to be kept by regulation 48, 1793; and the collector is to insert, in red ink, opposite to such entry, the number of the page in the last formed *quinquennial register*, in which such meahals, villages, or lands, may be recorded, that the lands included in the grant may be omitted in the *quinquennial register* which may be next formed, and also the number of the page in the register of intermediate resumptions and occurrences, directed to be kept by this regulation, in which such entries are also to be recorded, that they may be inserted in their proper place in the periodical register of grants that may be next formed; and the collector shall insert, in red ink, opposite to such entries, the number of the page in the register of intermediate mutations, from which they may have been taken."

Report of land now subject to the payment of revenue but which may be hereafter adjudged or become exempt from the payment of revenue, where to be made.

contained in Regulation 37, 1793, were extended to Cuttack, except such as are superseded by the three succeeding sections of that regulation, to the following purport.* § 26. *First.* "The term *Badshahee grant* shall be construed to extend to all grants made by the supreme power for the time being; and consequently to include grants of the following descriptions:—first, royal grants properly so called; secondly, grants made by the Souba of Orissa; and thirdly, grants made by the Rajahs of Berar." *Second.* "Altumga, jagcer, ayma, muddudmaush, or other Badshahee grants, for holding land exempt from the payment of revenue, made previous to the 11th October 1803, shall be deemed valid, provided the grantee actually and *bonâ fide* obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government. If it shall be proved, to the satisfaction of the court, that the grantee did not obtain possession of the land so granted previous to the 14th October 1803, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers, or the orders of Government, the grant shall not be deemed valid." *Third.* "In the event however of a claim being preferred by any person to hold land exempt from the payment of revenue, under a Badshahee grant made previous to the 11th October 1803, and of its being proved to the satisfaction of the court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the court shall entertain doubts as to the competency of such officer, under the powers vested in him, to resume the grant, and subject the lands to the payment of revenue, the court shall suspend its judgment, and report the circumstances to the Governor General in Council; to whom a power is reserved of determining whether

Rules contained in Reg. 37, 1793, extended to Cuttack, with modifications.

Section 26, Description of what the term *badshahee grant* is meant to include.

Badshahee grants made previously to the 14th October 1803, declared valid, provided the grantee obtained possession before that date, and has since held possession.

Such grants not deemed valid if the grantee did not obtain possession, or having obtained possession, the grant was resumed prior to the above date.

Courts to refer to the Governor General in Council in the event of their doubting the authority of any officer of Government, who may have resumed such grants.

* The mode of proceeding, directed in Sections 7, 8, 9, and 11, Regulation 37, 1793, was however subsequently altered for Cuttack, by the provisions of Regulation 5, 1813, as a ready notice.

Rules respect-
ing grants for
life only.

such officer was, or was not, competent to resume the grant; and upon receiving the determination of the Governor General in Council, the court is to act accordingly." *Fourth.* "But no part of the preceding clauses shall be construed to empower the courts to adjudge any person, not being the original grantee, entitled to hold land paying revenue to Government exempt from the payment of revenue, under a jageer or other grant made previous to the 14th October 1803, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only, according to the antient usages of the country." *Fifth.* Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue, under a jageer or other Badshahjee life grant, made previous to the 14th October 1803, to succeed to, and hold such land exempt from the payment of revenue, upon the demise of the present possessor, when the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where, from the nature and denomination of the grant, it shall be proved to be a life tenure only, according to the antient usages of the country." *Sixth.* "The present possessors of lands now exempt from the payment of revenue, under such jageer or other life grants, made previous to the 14th October 1803, and declared by the preceding clause not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives; and all such transfers and mortgages, which have been or may be made, are declared illegal and void." § 27. "All Badshahjee grants for holding land exempt from the payment of revenue, which may have been made since the 14th October 1803, by any other authority than that of the British Government, and which may not have been confirmed by Government, or by an

officer

The present
possessors of
life grants
prohibited from
transferring, or
mortgaging the
revenue of them
beyond their
own lives.

Sec 27.
All grants made
since the 14th
October 1803,
and not con-
firmed by Gov-
ernment, or an
officer duly au-
thorized, are de-
clared invalid.

officer empowered to confirm them, are declared invalid." § 28.

Section 28.
Courts how to
proceed in the
event of their
entertaining
doubts of the
authority of the
officer to con-
firm the grant.

"If doubts shall be entertained by any court as to the competency of the authority of any officer to confirm any such grant, the court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the court, upon receiving the determination of the Governor General in Council, shall decide accordingly."

THE rules which have been cited from Regulation 37, 1793, are re-enacted for the province of Benares in Regulation 42, 1795, with the following variations. 1. In Section 2, and other parts of Regulation 42, 1795, the 1st July 1775, the date of the cession of Benares to the Company, is substituted for the date of the dewanny grant in the lower provinces: An additional clause is likewise inserted in Section 2, as follows. "The term *Badshahee grant* is to be construed to extend to all grants made by the supreme power for the time being; and consequently to include grants of the following descriptions: 1st, royal grants, properly so called; 2dly, grants made by the Soubahdars of Oude; and 3dly, grants made by the authority of the British Government." 2. "Instead of Section 3, Regulation 37, 1793, the following provisions are enacted by Section 3, Regulation 42, 1795. *First*. "All *Badshahee* grants for holding lands exempt from the payment of revenue, which may have been made since the 1st of July 1775, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid. But grants of land held exempt from the payment of revenue; under grants made by the Residents at Benares since the 1st of July 1775, are not to be annulled by the decree of the city or any zillah court. The judge is to proceed with them, as directed with regard to the grants mentioned in clause third of this section." *Second*. "The Governor General in Council having determined,

Rules cited
from Reg. 37,
1793, re-enacted
for Benares
by Reg. 42,
1795, with mo-
difications.
Date substituted
in Section 2, and
other parts of
Regulation 42,
1795.

Section 2. Cl. 1.
Definition of
the term *Bad-
shahee grant*.

Section 3.
All grants made
or confirmed
since the 1st
July 1775, ex-
cepting by the
authority of Go-
vernment, or by
officers duly
empowered,
declared inval-
id.

Exceptions

Case of lands
granted in 1781,
to certain dis-

possessed zemindars in lieu of malikannah.

Courts how to proceed in the event of their entertaining doubts of the authority of the officer to confirm the grants.

Section 6. In is included in resumed grants to be assessed, and the revenue to be paid by the proprietors, according to the regulations for the decennial and quinquennial settlements.

Provisions of Regulation 37, 1793, re-enacted for provinces ceded by the Nawab Vizeer, in Reg. 36, 1803, with additions and alterations.

on the 11th April 1788, that the lands assigned in the year 1781, in lieu of malikannah, to certain dispossessed zemindars, should not descend to the heirs of the present incumbents without his express orders for that purpose, the judges and the collector are to attend to this rule; and the latter is accordingly to attach such lands, on the demise of the present holders, until the determination of Government respecting them be received." *Third.* "If doubts shall be entertained by any court, as to the competency of the authority of any officer to confirm any grant, the court is to suspend its judgment, and report the circumstances of the case to the Governor General in Council; to whom a power is reserved of determining finally, whether the officer possessed competent authority to confirm the grant, or otherwise; and the court, upon receiving the determination of the Governor General in Council, shall decide accordingly." 3. The following section is substituted for Section 6, Regulation 37, 1793. § 6. "When any Badshahee grant shall be resumed, or expire, or escheat to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules contained in Regulation 5, 1795, with the person possessing the zemindary or proprietary right in the lands, whoever he may be. If the proprietor shall refuse to pay the jumma demanded of him, the land shall be held *khaus*, or lot in farm."

THE provisions of Regulation 37, 1793, were re-enacted for the provinces ceded by the Nawab Vizeer, in Regulation 36, 1803, with the following addition and alterations. 1. Section 2, Regulation 36, 1803, contains an additional clause to this effect. "The term *Badshahee grant* shall be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following description. First, royal grants, properly so called. Secondly, grants made by the Soubahdars of Oude, and by the Newabs of Furruckabad. Thirdly, grants in Rohilcund, made by the Princes of that country prior to

the 23d of April 1774." 2. The 1st January 1801, being the commencement of the year in which the provinces referred to were ceded by the Newab Vizeer, is substituted for the date of the dewanny grant in the lower provinces. 3. The following section is enacted in Regulation 36, 1803, instead of Section 6, Regulation 37, 1793. § 6. "When any Badshahee grant shall be resumed, or expire, or escheat to Government, the revenue to be paid to Government from the lands included in it shall be assessed and the settlement made, agreeably to the rules prescribed in Regulation 27, 1803, with the person possessing the zemindary or proprietary right in the lands, whoever he may be. If the proprietor shall refuse to pay the jumma demanded of him, the lands shall be held khaus, or let in farm, as directed in that regulation." By Section 21, Regulation 8, 1805, the provisions of Regulation 36, 1803, are extended to the provinces ceded by DOULUT RAO SINDHEEA, and the Peshwa, with the following modifications. *Clause 2.* "Under the definition of *Badshahee grants*, contained in clause first, Section 2, of the regulation above-mentioned, viz all grants made by the supreme power for the time being, it is hereby declared, that the following description of grants shall be considered as Badshahee. First, royal grants, properly so called. Secondly, grants made by DOULUT RAO SINDHEEA, or his predecessors in authority, in the conquered provinces in Dooab, and on the right bank of the river jumna. Thirdly, grants made by the Peshwa, or his predecessors, in the territory ceded to the Honorable the English East India Company in Bundelcund." *Clause 3.* "If any grants of the descriptions specified in Regulation 36, 1803, shall have been made by other authorities than those stated in the preceding clause, a report of the same shall be made to the Governor General in Council, who reserves to himself the power of declaring whether such grants shall be deemed Badshahee, and valid, or otherwise." *Clause 4.* "The 1st day of January 1803, or 23d of Pooos 1210 Fussily, is substituted for the 1st of January 1801, in the several sections of Regulation 36, 1803, with respect to the zillahs to which that regulation is now extended."

Reg 8, 1805,
Sec 24.
Provisions of
Regulation 36,
1803, extended,
with modifica-
tions, to pro-
vinces ceded by
DOULUT RAO
SINDHEEA, and
the Peshwa.

But provisions of Regulation 8, 1811, before cited, applicable to lakheraj land held under *Badshahee* grants in the Upper Provinces.

Sections 7, 8, 9, and 11, of Reg 36, 1803, rescinded by Sec 2, Reg 8, 1811.

General remarks on principles of Regulation 8, 1811, and 5, 1813.

Power vested in the revenue authorities, by this regulation, consonant with the general power delegated to the revenue officers.

And accord with sentiments of Lord Cornwallis quoted in first vol of this Analysis.

Although he decided a pre-

It must be observed however, with respect to the whole of the upper provinces, that the powers vested in the collectors, under the control of the Board of Commissioners, by Regulation 8, 1811, and which have been cited at length, in stating the rules for resuming invalid tenures of lakheraj land, held under grants *not Badshahee*,* are also applicable to similar tenures held, or claimed to be held, under royal grants. Sections 7, 8, 9, and 11, of Regulation 36, 1803, were rescinded by Section 2, Regulation 8, 1811; and the remaining sections of that regulation respect all lands held exempt from the public assessment in the provinces ceded by the Newab Vizeer, by DOULUT RAO SINDHEEA, and by the Peshwa. Any person, who may be dissatisfied with the decision of the Board of Commissioners, being at liberty, under Section 6, of Regulation 8, 1811, to institute a suit, within six months, against Government, “to try the merits of the said decision;” and the courts of judicature being empowered, by Section 7, of that regulation, “in cases in which they may be of opinion that the decision of the Board of Commissioners has been passed on erroneous grounds,” to re-instate the plaintiff in possession of the lands, free of assessment; at the same time awarding to him a full re-imbursment of costs, with an adjustment of the collections made from the lands whilst in charge of the officers of Government; no just objection can be made to the principles of Regulation 8, 1811, and the corresponding provisions for Cuttack and its dependencies in Regulation 5, 1813. The power vested by these regulations in the revenue authorities, in the first instance, subject to an ultimate appeal to the courts of judicature, is indeed strictly consonant with the general powers delegated to the revenue officers, under the same judicial control, to enable them to collect the public dues with punctuality. The sentiments of Lord CORNWALLIS, (quoted in page 42 of the first volume of this Analysis,) relative to the necessity of arming the revenue officers with full powers in the first instance, also fully accord with the provisions of the amended rules for the ceded and conquered provinces; although in the regula-

* In pages 523 to 525.

tions enacted by him for the lower provinces, for the reason stated in the preambles to Regulations 19, and 37, 1793, viz:—"to obviate all injustice, or extortion, in the enquiry into the titles of persons holding exempted lands," he deemed it proper not only "that the claims of the public on their lands, provided they register the grants as required, should be tried in the courts of judicature;" but further "that no such exempted lands be subjected to the payment of revenue, until the title of the proprietor shall have been adjudged invalid by a final judicial decree." Considering the original illegality of all exemptions from the general land-tax, not sanctioned by due authority; the evil consequences of such exemptions in diminishing the proper land-revenue of the state, and thereby rendering it necessary to impose other taxes; and their obvious tendency to prevent a just equality of taxation, as well as to confer an unfair advantage upon the holders of exempted land, by enabling them to offer more favorable terms to tenants and cultivators than can be given by the owners of land subject to a heavy assessment; if the wise and safe guidance of experience should recommend an extension, to the lower provinces and Benares, of the amended provisions for the upper provinces and Cuttack, contained in Regulations 8, 1811, and 5, 1813, no principle of justice or policy could, I think, be offered against it; provided that the extension comprehend the whole contents of the regulations referred to; including the option of an appeal from the decision of the revenue authorities to the established courts of judicature. It is necessary to add this proviso, because in a late regulation for the upper provinces, "for securing the right of the British Government to assess land held under *mocurrence*, or *istimrar* grants, of any preceding government, on the decease of the holders thereof," passed on the 18th February 1815, it has been judged expedient to vest the revenue authorities with a final power of adjudication, subject only to the approval of the Governor General in Council; and expressly to prohibit the courts of judicature from taking cognizance of the claims of individuals to hold lands in perpetuity at a fixed assessment, under grants of the former governments in

vious judicial
inquiry in the
other provinces

No principle
of justice or po-
licy appear to
oppose the ex-
tension of Regu-
lations 8, 1811,
and 5, 1813,
to Benares and
the lower pro-
vinces, if re-
commended by ex-
perience.

Provided the
extension in-
clude an option
of appeal from
decisions of the
revenue autho-
rities to the
courts of judica-
ture.

Notice of this
proviso, suggest-
ed by part of
Reg. 1, 1815,
recently ac-
ced, for the up-
per provinces.

Reason for inserting the provisions of that regulation at length in this place.

Preamble to Reg. 1, 1815, "for securing the right of the British Government to affix land held under mocrurree or istimrar grants of any preceding Government on the decease of the holders thereof."

Section 2. Duty of collectors in the assessment of lands held under mocrurree or istimrar grants of the Native Governments on the decease of the holders.

Reservation of power to the Governor General in Council to grant an abatement from the jumma of the lands which may be affected.

Section 3. Courts of justice restricted from taking cognizance of the question of resumption of grants described in 2d Section, or of the assessment of the lands consequent thereon.

the territories ceded by the Newab Vizeer, DOULUT RAO SINDHIA, and the Peshwa. This regulation having been enacted since the third head of the present section, relative to the *assessment of the upper provinces*, was printed; and being moreover partly connected with the primary subject of the eighth head, viz. *lands exempt from assessment*; the preamble and provisions of it are subjoined, at length, in this place. "Whereas the occupants of lands in the ceded and conquered provinces, and in Bundelcund, held at a mocrurree or istimrar jumma, under recognized grants of the native governments, have been permitted by the British Government to hold the same according to the terms of the grants during life; and whereas it is expedient to obviate every doubt respecting the right of the British Government to impose an adequate assessment on such lands on the death of such life tenants; the following rules are enacted, to have effect from the date of their promulgation in the provinces aforesaid." § 2. "On the death of any person holding lands in the ceded and conquered provinces, or in Bundelcund, on a mocrurree or istimrar tenure granted by the native governments, it shall be the duty of the collector of the zillah, in which the lands are situated, to proceed to the assessment thereof, under such instructions as he shall receive from the Board of Commissioners on the subject; and that Board shall apply to the Governor General in Council for special orders, in any case which may appear to call for a deviation from the established rules prescribed for the public assessment; in order that, if the Governor General in Council shall in any case see grounds for granting an abatement from the jumma, which on that principle would be assessed on the lands, he may take the subject into his consideration, and may allow such reduction of the jumma, as may be deemed proper." § 3. "No court of justice shall, on any account, take cognizance of the question of resumption of grants of the nature described in the preceding section, on the death of the holder; nor of the assessment of the lands consequent thereto.—The adjudication of all claims on these accounts shall rest definitively with the revenue authorities; subject only

only to the approval of the Governor General in Council." § 4. " Nothing contained in Section 3 shall be construed to preclude the courts of justice from receiving, hearing, trying, and deciding on, claims to the actual property in the lands situated within a *mocurreree* or *istimrar*; as well as to all or any of the rights, privileges or advantages, annexed to such property by the existing laws or established usages of the country." §. 5. " Nothing contained in this regulation shall be considered to deprive the revenue officers of the right to resume, as heretofore, any *mocurreree* tenure proved to be illegal or invalid, during the life of the present incumbent." §. 6 " All such *mocurreree* or *istimrar* having been declared to be life tenures only, the courts of judicature are hereby further prohibited from taking cognizance of any claim to hold any land at a *mocurreree* or *istimrar* rent, by virtue of any grant, the possessor of which may have died at any time subsequent to the cession or conquest."

Section 4.
The courts of justice not restricted from taking cognizance of claims to the actual property in the lands.

Section 5.
Revenue officers to resume any *mocurreree* tenure which may be proved to be illegal or invalid, during the life of the incumbent.

Section 6.
Courts of justice prohibited from taking cognizance of claims to such tenures, if the possessor of the grant shall have died subsequently to the cession or conquest.

It is the design of this work, as stated in the introduction to it, rather to explain the principles upon which the legislative provisions referred to in it appear to have been founded, than to discuss the policy of those principles. Yet consistently with that design it may be observed, that the reasons assigned in the preamble to Regulation 2, 1793, and quoted in the first volume of this Analysis (page 40) why " all financial claims of the public, when disputed under the regulations, must be subjected to the cognizance of the courts of judicature, superintended by judges, who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public, and the proprietors of land," do not appear to have been considered applicable to the claims excluded from judicial cognizance by Sections 3 and 6, of Regulation 1, 1815. It may be added, that the provisions of this regulation make no distinction between proprietors and farmers of land; whereas grants at a *mocurrery* or *fixed* assessment to the former, and *mocurrery* leases to the latter, are materially distinguished in the rules for the

Design of this work to explain principles of the legislative provisions referred to in it, rather than to discuss the policy of them.

Observation, consistent with that design, on exclusion of claims from judicial cognizance by Sections 3 and 6, of Regulation 1, 1815.

Further remarks on provisions of Regulation 1, 1815, as not distinguishing between proprietors and farmers of land.

Distinction between them in rules for settlement of the lower provinces.

the permanent settlement in the lower provinces. By Section 16, Regulation 8, 1793, "mocrerry leases to persons not the actual proprietors of the lands included in such leases, if granted or confirmed by the supreme Government, or obtained previous to the Company's accession to the dewanny, are to be continued in force during the lives of the lessees, subject to an abatement of the fixed jumma for the authorized sayar resumed, or abolished; but on their death the settlement is to be made with the actual proprietors of the soil, agreeably to this regulation." As far as respects *mocrerry farms*, this rule corresponds, in substance, with Section 2, of Regulation 1, 1815; and was probably founded upon information that mocrerry leases, under the Mahomedan government of Bengal, Behar, and Orissa, to persons not proprietors of the land, were usually considered to be for life only. But in Section 17, of Regulation 8, 1793, "mocrerry grants to the actual proprietors of the soil, made or confirmed by the supreme Government," were expressly directed to be continued in force, subject to an abatement of the fixed jumma on account of the resumption, or abolition of the authorized sayar;" and with respect to estates held by the proprietors of them at a fixed assessment, under mocrerry grants not made or confirmed by the British Government, if any such existed, they were excepted from an increase of assessment by Sections 76 and 84, of Regulation 8, 1793, provided their lands had been "held at a fixed jumma during the last twelve years." Supposing the whole of the mocrerry grants in the upper provinces, whether to landholders or farmers, to have been usually considered life tenures only, the postponement of a permanent settlement of the land revenue of those provinces will sufficiently explain and justify the extension of Section 2, Regulation 1, 1815, to proprietors as well as farmers of land; and although some landholders should have held their estates at a fixed assessment for a period of twelve years before they became subject to British authority, it must be at the discretion of the existing Government to determine whether, on consideration of all the circumstances which distinguish the original acquisition

Extension of Section 2, Regulation 1, 1815, to proprietors, as well as farmers, may be explained and justified by supposition that all the mocrerry grants in the upper provinces have been usually considered life tenures only.

acquisition and actual condition of the provinces ceded to the East India Company by the Newab Vizeer, DOULUT RAO SINDHEEA, and the Peshwa, from the state of Bengal, Behar, and Orissa, when it was judged advisable to fix the permanent assessment of the land revenue of these provinces, the same principles of policy and limitation should be adopted, or otherwise. I will only add on the general subject which has led to these remarks, that by Section 12, Regulation 30, 1803, (extended to the conquered provinces and Bundelcund by Section 20, Regulation 8, 1805,) the landholders, farmers, and all other persons in the provinces ceded by the Newab Vizeer, DOULUT RAO SINDHEEA, and the Peshwa, are restricted from demanding "an increase of rent from any mocrerrydar, istimrardar, or other description of undertenant of land who, at the period of the cession to the East India Company, shall have been entitled to hold his tenure at a fixed rent; and shall have actually held the same at a fixed, invariable amount, for twelve complete years before that period." This rule does not extend to mocrerrydars, paying revenue immediately to Government; but it is further enacted, with respect to the undertenants referred to, that "any such undertenants, provided they shall clearly establish that, by the conditions of their tenures, they were not liable to any encrease of rent, and that they actually paid a fixed, invariable, annual rent during the above period, are hereby declared exempt from all enhancement of their fixed rent by any proprietor or farmer of land, or by any officer of Government, during the continuance of their tenures, according to the terms and conditions thereof."

These remarks concluded with an extract from Sec. 12, Reg. 30, 1803, relative to undertenants of land, who held their tenure at a fixed rent for twelve years antecedent to the cession of territory in the upper provinces, to the East India Company.

P E N S I O N S.

It has been already noticed, as one of the rules for the decennial settlement of Bengal, Behar, and Orissa, that all allowances and pensions, of a public nature, which had been hitherto paid by the landholders, or others, who engaged for the land revenue, were made payable, for the future, by the collectors, on the part

Rules for determining the continuance or discontinuance of pensions, formerly paid by the landholders and farmers, in the provinces of Bengal, Behar, and Orissa; but

Included in the amount of the public assessment, on forming the decennial settlement of whole provinces.

These rules also applicable to pensions paid from the sayer abolished.

Reg. 23, 1893, Section 2. What pensions are to be continued.

Section 3. What to be discontinued.

Section 4. Modified by Sec. 2 and 3, Reg. 22, 1896. Pensions not to be continued to descendants of original grantees without the sanction of the Governor General in Council, or Board of Revenue.

of Government, under such rules and restrictions as might be prescribed for their guidance in regulating these payments. The following rules, comprising modifications of those passed on the 10th June 1791,* have accordingly been enacted by Regulations 24, 1793, and 22, 1806, for determining the continuance or discontinuance of pensions formerly paid by the landholders, or farmers of land, in the lower provinces, but included in the amount of the public assessment on the conclusion of a permanent settlement; as well as for securing the regular payment of pensions to persons entitled thereto. These rules are also applicable to pensions which, before the abolition of the sayer, were paid from that article of revenue. 1. "All pensions received by virtue of sunnuds granted previous to the Company's accession to the dewanny, or since granted with the sanction of Government, shall be continued during the lives of the grantees. In instances in which the amount received may have been less than the amount specified in the sunnud, the former only is to be continued as heretofore" 2. "No pensions received without a sunnud, or under sunnuds granted since the Company obtained the dewanny without the sanction of Government, shall be continued, unless the persons receiving the pensions be real objects of charity, or unless they received them before the commencement of the Bengal, Fussily, or Willaity year 1179, (in Bengal, Behar, and Ori-sa respectively) and have since continued to receive them; in which case the pensions heretofore received are to be continued during the lives of the present pensioners." 3. "If the persons to whom the pensions were originally granted be deceased, the allowances are not to be continued to their heirs or descendants without the sanction of the Governor General in Council," if exceeding fifty Sicca Rupees per annum; or the sanction of the Board of Revenue, if not exceeding that sum: "and no pension, after the death of the party now entitled thereto, shall be hereafter continued to his descendants without the like sanction, whether the grant be, according to the terms of it, hereditary or otherwise." 4. "All

* See COLIBROOK'S Digest, vol. 3, page 295.

persons deeming themselves entitled to pensions heretofore paid by proprietors or farmers of land, and now included in the jumma of Government, or to pensions heretofore received from the sayer abolished, are required to prefer their claims to the collector of the zillah in which they received the pensions.* The collector is to make the necessary inquiry into the validity of the claimant's title to the pension, under the preceding rules, and to transmit the proceedings held by him, with his sentiments on the subject, to the Board of Revenue; who, on consideration of the circumstances of the case, are authorized to pass a final decision whether the claim shall be admitted, or otherwise, if the amount claimed be not more than fifty Srēca Rupees per annum; or, if it exceed that sum, are to submit the proceedings, with their opinion, for the orders of the Governor General in Council.† 5. "Whenever a person, in whose favor a pension, not exceeding fifty Srēca Rupees per annum, has been, or may be, adjudged, shall die; "it shall be left to the Board of Revenue to determine, after receiving the report of the collector, whether the said pension or any part of it shall be continued to the heirs and successors of the deceased; but in the exercise of this power the Board of Revenue are required to ascertain particularly the situation and circumstances of the party claiming the continuance of the pension; and not to comply with any applications of that nature, unless on the ground of poverty, or for other substantial reason, the party claiming the pension shall have a strong claim on the indulgence of Government. All applications for the continuance of pensions, exceeding the sum specified, are to be reported to the Governor General in Council, for his orders."‡

Reg 24, 1799
Sect 1 & 6. 7
Modified by
Sec 2 and 3,
Reg 22, 1802.
Cases to pen-
sions to be pre-
ferred to the
collector of the
zillah.

Reg 22, 1802.
Section 7.
Pensions of de-
ceased persons,
under what
directions, to be
continued to
their heirs.

Applications
for the continu-
ance of pensions
exceeding fifty
rupees to be
reported to Gov-
ernment.

* The terms of Section 3, Regulation 22, 1802, might be construed to authorize the Board of Revenue to decide on claims to pensions, not exceeding one hundred rupees per annum, in like manner as the Commissioners in the upper provinces are empowered by the preceding section to decide on claims to that amount. But a reference in Sections 5 and 7, to the sum specified in Sections 2 and 3, renders this construction doubtful; and the practice of the Board of Revenue has been to submit to Government claims to pensions exceeding fifty rupees in the lower provinces.

† On the 6th August 1802, the Board of Revenue directed their Accountant to furnish them with an annual statement, exhibiting the names of the pensioners who may die in the course of the year in each district, and the amount of the pensions to which they were respectively entitled.

Section 8
Not to be paid,
all a decision be
passed on the
continuance of
such pensions.

Reg. 24, 1793,
Section 8
Modified by
Regulation 22,
1806
Collectors re-
stricted from
paying any pen-
sions, till duly
authorized.

Reg. 22, 1806,
Sec 5 and 6
Information to
be given to
civil auditor
of pensions al-
lowed by Board
of Revenue, or
by Government,
and collectrs to
furnish any fur-
ther information
required.

Reg. 24, 1793.
Sec. 20 and 22.

6. "The collectors of the revenue are required to make it a particular object of their attention to ascertain whether the persons at present receiving pensions are the individuals to whom the pensions were originally adjudged; and in those cases in which it may appear that the individuals to whom the pensions were adjudged are dead, to discontinue the payment thereof, until it shall have been determined, under the preceding rules, whether the said pensions, or any part thereof, should be continued to their heirs and successors, or otherwise." 7. "The collectors are restricted from paying any pensions not already authorized, until they shall receive notice of a right thereto having been decreed by the Board of Revenue, if the amount be not more than fifty sicca rupees per annum; or, with respect to pensions of a large amount, of their having been allowed by the Governor General in Council."* 8. Whenever the Board of Revenue may authorize the continuance of a pension, not exceeding fifty sicca rupees per annum, "they shall furnish the civil auditor, with the necessary information on the subject. In like manner, the civil auditor will be informed by order of Government, of any pensions exceeding the sum above specified, which may be authorized by the Governor General in Council. The collectors are required to furnish the civil auditor with any further accounts or information which he may require respecting the pensions payable in their respective districts; and to adhere to any forms with which he may furnish them." 9. "The collectors,

* The collectors in the lower provinces and in Benares having been authorized, before the enactment of Regulation 22, 1806, to decide, under the prescribed rules, and subject to an appeal to the Board of Revenue, upon claims to pensions not exceeding fifty sicca rupees per annum; and the collectors in the upper provinces having been vested with a similar power, with respect to pensions not exceeding one hundred sicca rupees per annum; it was added in Section 4, Regulation 22, 1806, to the provisions cited from that regulation, that "it is not intended by the foregoing rules to rescind, or otherwise to affect, any decisions already regularly passed by the collectors, or by their predecessors, in any part of the country, upon claims preferred to the continuance of pensions in their respective districts, not exceeding the sums above specified; but the several collectors are required to transmit to the Civil Auditor, within three months from the present date, a list of the several pensions adjudged by them, or their predecessors, under the rules hitherto observed; with references to the monthly abstracts submitted by them to the Board of Revenue."

another,

on receiving intimation of the decision of the Board of Revenue, for a pension not exceeding fifty Sicca Rupees per annum, or on being informed of the Governor General in Council having ordered the continuance of pensions of a larger amount, "shall deliver to the party, entitled to the pension adjudged, a certificate stating the amount of the pension, the title of the party thereto during his or her life, the ground of such title, and whether admitted by the Board of Revenue, or by the Governor General in Council, with the date of such admission. The collectors, at the time of granting such certificates, are to number and register them in an English and Persian register, to be kept for this purpose; and they are to be careful to note therein also such personal identifications of the parties receiving the certificates, as may detect any future attempt to transfer them to others." 10. "The annual amount of the pensions is to be issued in quarterly proportions, viz. on the last day of the third, sixth, ninth and twelfth months, of the Bengal, Fussily, and Willaity years respectively, for the preceding three months." 11. "All persons receiving pensions exceeding fifty sicca rupees per annum are to attend the collectors in person at the stated periods, to receive the amount of their respective pensions; and the collectors are prohibited from issuing any pensions excepting to the parties personally, unless they shall be disabled from attending by illness, or other sufficient cause, of which satisfactory proofs shall be exhibited. The collectors, on being satisfied of the inability of the parties to attend in person, are permitted to issue the pensions to their authorized wakeels; but they are to take due precautions to prevent impositions after the death of the pensioners; and in the event of any pension not being claimed within six months after it may become payable, they are to ascertain whether the party who received it be deceased, and report accordingly." 12. It is added in Section 4, Regulation 11, 1813, which confirms the mode of payment prescribed by the above rule for pensions exceeding fifty rupees per annum, that "for the accommodation of individuals, the payment of any authorized pension will be transferred from one district to

Certificates to be delivered to persons to whom pension may be adjudged.

Register of certificates to be kept.

Section 13. Pensions to be paid quarterly.

Section 14. Rule for payment of pensions exceeding fifty rupees per annum, by the collectors.

Reg 11, 1813. Section 4. Payment of authorized pensions may be transferred from one district to another.

another, on the application of the party entitled to receive it, in cases in which no public inconvenience shall appear to attend the adoption of that arrangement." 13. *First.* "By Sections 15, and 16, of Regulation 21, 1793, as well as by Sections 14 and 15, of Regulation 24, 1803, for the ceded provinces, pensions not exceeding fifty rupees per annum were made payable by the pergunnah cauzies; or where there might be no cauzies, by the tch-sildar or other officer of Government stationed in the pergunnah or village in which the pensioner might reside; or some other trust worthy person in the neighbourhood. But these sections were rescinded by the first clause of Section 5, Regulation 11, 1813; and the following rules were substituted by the two succeeding clauses of that section." *Second.* "Persons entitled to pensions, not exceeding fifty rupees per annum, shall attend once in each year, that is, on the issue of the first quarterly payment, at the cutcherries of the collectors, for the purpose of identifying themselves, by reference to the registers ordered to be kept by Clause 1, Section 3, of this regulation; and by such other enquiries as the collectors may deem it necessary to make, in order to guard against frauds in the payment of such pensions: provided however, that in cases in which the collectors may be satisfied, after making the fullest enquiries possible on the subject, that the pensioners are actually precluded by sickness or infirmity from attending in person, or that they are women who, according to the usage of the country, do not ordinarily appear in public, the first quarterly payment shall be issued to any person duly authorized to receive the amount on the part of such pensioners." *Third.* "The three remaining quarterly payments shall be made by any officer on the regular establishments, to whom the collectors may think proper to commit the performance of this duty. It shall be the duty of the officer so selected to repair to the residence of the different pensioners; to ascertain fully whether the recorded pensioners be living; whether the persons claiming the different pensions be the persons actually authorized to receive them; to issue such pensions only as are indisputably receivable; to refer all questions

Section 5.
Clause 1.
Former rule
for payment of
pensions not ex-
ceeding fifty ru-
pees per annum
rescinded.

Clause 2.
Persons receiv-
ing pensions not
exceeding fifty
rupees per an-
num to attend
once in each
year at the cut-
cherries of the
collectors on
the issue of the
first quarterly
payment, for the
purpose of den-
tifying them-
selves.

Clause 3.
The three re-
maining quar-
terly payments
of the pensions
may be made
by any officer
whom the col-
lector may dis-
pose to perform
that duty.

questions of doubt to the collector for his orders; and finally to report the result of the duty entrusted to him." 14. The pensions and allowances, to which the foregoing provisions relate, being gratuitous, "the determining upon the continuance or discontinuance of them, under the rules prescribed, is reserved to the Board of Revenue, and the Governor General in Council; and claims to such pensions and allowances are declared not cognizable in any court of judicature. But if a collector, or any person entrusted with the payment of pensions, shall withhold from any pensioner the pension to which he or she may be entitled in virtue of a certificate granted under the ninth rule, the collector or person withholding the pension, is liable to be sued for such act in the dewanny adawlut of the zillah or city in which the pension may be payable; and provided proof be made to its satisfaction that the complainant conformed to the rules prescribed to pensioners respecting the receipt of their pensions, and the person complained against cannot show good and sufficient cause, to the satisfaction of the court, for having withheld the pension, the court is to order it to be discharged; and compel the collector or other person by whom the pension may have been withheld, to pay the complainant such sum for costs as may appear to it equitable."

15. The pensions receivable under the stated rules, are, in all practicable cases, to be commuted for grants of waste land, "to be held by the grantees, and their posterity, in perpetuity, free of assessment: provided, however, that no pensions shall be so commuted during the life of the persons by whom they are at present received, (in case they have been regularly investigated and adjudged) except with their own consent. Provided also, that pensions granted for, and *bonâ fide* appropriated to, the support of institutions, either of the Hindoo, or Mahomedan religion, shall be continued for the support of such institutions; unless the present incumbents or their successors shall, of their own free will and accord, agree to accept grants of waste lands, to be held free of assessment, under a permanent tenure, in lieu of the said pensions. Provided, moreover, that no pensions which are declared

Reg. 24, 1798
Section 17.
Courts of judicature not to take cognizance of claims to pensions.

But they may hear complaints against a collector or any person to withhold the payment of a pension which may have been adjudged.

Reg. 25, 1800
Section 9.
Pensions to be in all practicable cases commuted for grants of waste land free of assessment.

Provisions respecting pensions which are not to be commuted without the consent of the parties.

Section 16.
Measures to be
adopted by the
Government for
the purpose of
commutation.

to be hereditary, either by the terms of the grant, or by any existing regulation, shall be so commuted without the consent of the present pensioners, or their successors." 16. "Whenever a pensioner may die, or may be desirous of commuting the pension received by him, for a grant of waste land, it shall be the duty of the collector to ascertain and report, where lands capable of cultivation, and conveniently situated, with reference to the person to whom they are to be granted, can be obtained for that purpose. If it be intended to make the proposed grant within the limits of the district in which the pension may have been hitherto paid, the collector will of course have ample means of obtaining the necessary information on the subject, from his own records, and through the channel of his own officers. If it be intended to make the proposed grant in any other district, the collector shall apply to the collector of that district, for the necessary particulars on the subject; and in either case shall report the result to the Board of Revenue." 17. "Whenever the Board of Revenue may be of opinion, on consideration of the reports above noticed, and of any further information which they may require from the collectors, that it would be advisable, under the provisions and restrictions stated in the two preceding rules, to commute any of the pensions, at present receivable, for grants of waste land, they shall report their sentiments on the subject to Government, accompanied with the draft of a sunnud for the grant in question, to be signed, if approved, by the Chief Secretary of Government, or by the Secretary in the Revenue and Judicial Departments, by order of the Governor General in Council; in framing which grants, the Board of Revenue shall particularly attend to the purposes for which the grants are made; and to the wishes of the grantees in regard to the form and title of the deeds." 18. In ordinary cases, the quantity of land shall be such, that the annual net rent produce of it, when brought into cultivation, may be equivalent to the annual amount of the pension. The Governor General in Council, however, reserves to himself the power of increasing or diminishing that quantity, as the situation of the

parties.

Section 17.
Board of Revenue
to report on
such cases to
Government;
and to submit a
draft of the
sunnud for the
signature of the
Chief Secretary
or the Secretary
in the Revenue
and Judicial
Departments.

Section 18.
General rule as
to the quantity
of land to be
granted.

Government
may increase or
diminish the
quantity, and
will adjust the

pecuniary payment to assist in bringing the land into cultivation.

parties and other circumstances may suggest. The Governor General in Council will likewise authorize, in addition to such grants of land, the payment of a sum of money to enable the grantee, with greater facility, to bring the lands into cultivation; provided however, that such sum shall not in any case exceed the amount of the pension, in commutation of which the land has been granted, for one year.*

THE whole of the foregoing rules, for the lower provinces, are extended to the district of Cuttack, by Section 30, Regulation 12, 1805, and the general provisions of Regulation 22, 1806; with the following qualifications. *First.* In cases wherein persons may have obtained pensions from the Government of Berar, under grants made previous to the 14th of October, 1803, it is provided that "such pensions shall be continued to the present incumbents; and will either descend to their heirs and successors, or revert to Government on the decease of the present incumbents, as shall appear to the Governor General in Council on a consideration of the tenor of the grant, and all the circumstances of the case, to be proper." *Secondly.* In cases wherein persons shall have been in the actual receipt of pensions, during a period of three or more years, antecedent to the 14th of October 1803, under whatever authority, it is directed, that "such pensions shall be continued to the present incumbents, during their respective lives, but shall

Reg. 12, 1805, Sec. 30, and Reg. 22, 1806. Stated rules for lower provinces extended, with qualifications, to Cuttack.

Provision for pensions granted by the Berar Government before the conquest of Cuttack.

Also for pensions actually received under whatever authority, three or more years before the 14th October 1803.

* The grant of waste lands, free of assessment, in commutation of pensions payable by Government, appears to have in view. Not only the discontinuance of the money payment, but also the cultivation of such lands, and consequent extension of the general agriculture of the country. With respect to the first object, however, the policy of it seems restricted to the commutation of pensions granted or confirmed in perpetuity. With regard to the second also, unless it could be expected that the grantees would cultivate the lands with their own hands, they must supply themselves with laborers and tenants, who, if not so engaged, would probably cultivate other lands. It may be questioned therefore whether the general cultivation will be augmented by the means proposed; and under the objections which have been noticed to grants of land exempt from the public assessment, it appears desirable that such grants, in the exercise of the discretion reserved to the revenue authorities and to Government, should not be made in commutation of any pensions for life only; but be strictly confined to cases in which a money pension would otherwise be payable from the public treasury in perpetuity.

revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the Governor General in Council to exist for continuing the said pensions to their heirs and successors." *Thirdly.* It is expressly provided that nothing in the rules referred to "shall be construed to authorize the resumption of the established donation for the support of the temple of *Jaggernaut*; the charitable donation to the officers of certain Hindoo temples, called *Annoochultree*; and the allowance granted for the support of the Hindoo temple at Cuttack, called *Sectaram Thakoor baree*."

Exception for special rules of certain donations for support of temples, and the officers attached to them.

How far the rules prescribed for the lower provinces are in force in the province of Benares.

Reg. 34, 1795, Section 9. First class of pensions to be considered as property.

Section 39. Second class of pensions, to zemindars, landholders, determinable on the demise of the possessor.

Section 4. Third class of

RULES to the same effect as those specified for the lower provinces are also in force for the province of Benares, under Regulations 34, 1795, and 22, 1806; excepting the first, second, third, and tenth rules; instead of which the following are substituted for the latter province. 1. "The pensions under the heads of *maash*, and *rozeena*, sanctioned by the Governor General in the year 1781, amounting to Benares sicca rupees 33,206 7 annas, having been originally granted, either wholly or in part, as indemnifications for *ayma*, or other lands, resumed under the native Government, are not to be liable to resumption on the death of the persons who now receive them, notwithstanding that such resumption made part of the original order issued for the confirmation of them; but are to be considered as property; and are to descend to the heirs of the present and future receivers; and are declared liable to be sued for and inherited, in the same manner as other property." 2. "The second class of pensions payable from the treasury consist of allowances granted in 1781 by the Governor General, to certain persons who represented themselves to have been landholders in the zemindarry of Benares, and whom it was then intended to re-instate. Agreeably to the orders of the Governor General in Council under date the 11th of April 1788, no part of these pensions are to be continued to the heirs of the persons now in the enjoyment of them, without his special sanction." 3. "Besides the pensions noticed

noticed in the preceding section, there are others payable from the moolky treasury, which were heretofore paid by the aumils in their several pergunnahs; and for the amount of which they received credit in their accounts of the revenue; and also certain other miscellaneous allowances to individuals, receivable partly from government, and partly from the moolky treasury; the continuance of all which depends on the conditions and limitations under which they were severally granted. But it is to be considered as a general rule, that the collector is to report to the Board of Revenue (*now the Board of Commissioners*) the death of all pensioners whose pensions are receivable either from Government's or the moolky treasury, with the circumstances and conditions of the original grant; and the several orders that may have been subsequently passed on the subject. The Board are to submit this report, with their sentiments on the case, to the Governor General in Council, who will thereon issue such orders as may be applicable respecting the continuance or resumption of each particular pension, or allowance." 4. "The *cauzy* and *moofy* of Benares having always received *khelauts* at the two *Eeds*, or annual Mahomedan festivals, denominated the *Eedyn*, the fixed expense of such *khelauts* is to be defrayed by the collector in the usual manner." 5. "The sixth class of pensions consists of the allowances granted by order of the Governor General in Council, on the 11th of February 1791, and paid from the *Fussily* year 1200, (1792-3,) to such of the persons who formerly received pensions from the *sayer*, as from indigence, age, or helplessness, were deemed objects of real charity, under *tushas*, or certificates, specifying that such pensions were to cease on the death of the holders. That this fund may continue to be faithfully applied to its original object, by being appropriated solely to the relief of those natives and settled inhabitants of the district of Benares, who from age, sex, or infirmity, shall be unable to provide for themselves, or earn a livelihood by their labor, it shall be the duty of the collector of Benares to report immediately to the Board of Revenue (*now the Board of Commissioners*) the

pensioners, and
merely issuable
out of the local
collections, and
other allowances
of the same
description, de-
pend for their
continuance af-
ter the death of
the present hold-
ers, on the will
of Government;
as do the fourth
or miscellaneous
class of
pensions.

Report to lands
by the collectors
in such cases,
to the Board of
Commissioners

And to be sub-
mitted with the
sentiments of
the Board, for
the orders of the
Government.

Section 4.
Fifth class. Al-
lowance for
khelauts to the
cauzy and *moofy*
at the two
Eeds.

Section 5.
Sixth class of
pensions.

Allowance to
indigent and
helpless persons
who formerly
had pensions
on the abolished
sayer.

All the pensions
in this class to
lapse on the
death of the
holders.

decise

What to be again
granted to pro-
prietors objects.

Section 7
Seventh class of
charitable al-
lowances de-
frayable from
the offerings of
the temple of
Bindabashnee.

Section 10
Persons to be
paid monthly.

What rules ef-
fected for
the upper pro-
vince.

demise of every pensioner on this list, and to recommend the trans-
fer of the pension, wholly or in part, to one or more proper ob-
jects. The Board are to submit this recommendation to the Go-
vernor General in Council, with their opinion on it; and in the
event of its being approved by him, they are to order the collector
to grant a *tushea* or certificate for the pension, under his seal and
signature, bearing date from the demise of the last holder. This
certificate is to specify the sex, and age, of the party on whom
the pension may be conferred; and the motive for bestowing it on
him or her; with a provision that it is to be continued only during
the natural life of the holder: The aggregate of the pensions
specified in this section is not to be increased beyond the present
amount of them, except by order of the Governor General in
Council." 6. "Certain charitable allowances are likewise de-
frayable from the religious offerings made at the temple of Binda-
bashnee, near to Mirzapoor, the distribution of which, (as hither-
to made to the parties entitled to receive it under the authority of
the native judge,) is to be continued as formerly; with this alterati-
on, that the distribution is to be made under the orders of the Board
of Revenue (*now the Board of Commissioners,*) and the Governor
General in Council, by the collector; who is to be held responsi-
ble for the proper dispensation of the charity, agreeably to the
established rules for the management of it. If any of the parties
interested in this fund shall deem themselves aggrieved by the
orders of the collector, they may represent the circumstances to
the judge of the dewanny adawlut, and the judge is to forward
the petition to the Governor General in Council; who reserves to
himself the power of passing such determination on the petition as
may appear to him proper." 7. "The annual amount of the
pensions is to be issued in monthly proportions, agreeably to the
practice which has hitherto prevailed in the province."

By Regulation 24, 1803, "for trying the validity of titles of
persons receiving, or claiming a right to receive, pensions, un-
der the denominations of *Saleemah*, *Razeejah*, or any other de-
scription

cription of grant, in the provinces ceded by the Newab Vizeer," (extended to the provinces ceded by DOULUT RAO SINDHIA, and the Peshwa, by Section 17, Regulation 8, 1805,) and by the general Regulation 22, 1806, before referred to, the rules established in Bengal, Behar, and Orissa, are re-enacted for the upper provinces, with the following modifications. *First.* Instead of the first three rules enacted for the lower provinces, seven rules are prescribed for the upper provinces; viz: 1. "Pensions which may have been granted by the late Government, either wholly or in part, as indemnifications for altungah, ayma, or other lands (held by sunnuds conferring a right in perpetuity) resumed by such Government, shall not be liable to resumption on the death of the persons who now receive them; notwithstanding that such resumption made part of the original order issued for the confirmation of them; but are to be regarded as property, and are to descend to the heirs of the present and future receivers; and are declared liable to be sued for, and inherited, in the same manner as other property." 2. "Pensions which may have been, in like manner, granted as an indemnification for lands resumed by the late Government, held only under a life tenure, shall be continued during the life time of the persons who were in receipt of them at the time of the cession; whether they be the original grantees or their heirs." 3. "The cauzies and mustees of the principal cities having always received khelats, or shawls, at the two Eeds or Mahomedan festivals, the expense thereof is to be defrayed by the judge and magistrate, in the usual manner, and at the customary rate." 4. "Pensions which may have been granted by the late Government, to the indigent, aged, or helpless, under *tushcees*, or certificates, specifying that such pensions were to cease on the demise of the holders, shall be continued to the persons who received them at the period of the cession, during their respective lives, whether they be the original grantees or not; and notwithstanding that such pensions may have been granted by the aumils, provided they were regularly charged in the aumil's accounts, and admitted, or not struck off, by the late Government, they shall,

Reg 24. 1805/
Section 2.
Pensions to be
considered as
property.

Section 3.
Certain p n-
sions to deter-
mine on the de-
mise of the
party.

Section 4.
Allowances for
khelats to be
granted to the
cauzy and must-
ee.

Section 5.
Pensions to be
continued du-
ring the lives of
the persons who
received them
at the time of
the cession, whe-
ther the origi-
nal grantees or
not.

in like manner, be continued to the present receivers, should it appear that they have been in the uninterrupted receipt thereof, during a period of three years prior to the cession; or for such other period of time as, from the circumstances of the case and the situation and condition of the claimants, may reasonably constitute a prescriptive right to the continuance of the pension. Where a claim may be preferred to a pension which shall not have been paid to the claimant for the period of three years antecedent to the cession, and the collector may be of opinion that the claim is of such a nature as to merit the consideration of Government, he shall submit the proceedings on the subject of such claim to the Board of Revenue (now the Board of Commissioners) for the orders of the Governor General in Council.” 5. “Pensions granted to fakeers and other religious persons, for the purpose of lighting mausoleums or mosques, or for that of repairing them, as also to enable them to perform their religious ceremonies usual in the Mohurram, shall be continued; but pensions of this description are not to be considered as of a personal nature; and the collector shall be responsible for their being applied to the purposes for which they were bestowed.” 6. “Where written *tushees*, certificates, or other deeds, cannot be produced, the prescriptive right, arising from long receipt, shall entitle the claimant to a continuance of the pension.” 7. “In fixing the sum to be paid to the pensioners, the collector is not to be guided by the amount that may be stated in their respective certificates, but by the amount that it may appear, from the *pergunnah* or *zillah* accounts, they were in the habits of receiving; provided such sum does not exceed that stipulated in the certificate, which shall in such case become the standard.” *Secondly*. Instead of quarterly payments as directed by the 10th rule in the lower provinces, it is provided in the upper provinces, that “the annual amount of pensions shall be paid in two equal payments, viz: at the *khureef* and *rubby* harvests.” *Thirdly*. All pensions are to be issued from the *zillah* treasuries (viz. of the collector or *tehseeldars*) “and are on no account to be deducted in the *pergunnah* from any particular article-

Claims to pensions, not paid for three years antecedent to the cession, to be submitted to the Board of Commissioners, for the orders of Government.

Section 6.
Pensions granted for religious purposes to be continued.

Section 7.
Prescriptive right to be sufficient proof where written documents cannot be produced.

Section 8.
In what manner the sum to be paid the pensioners is to be ascertained and fixed.

Section 12.
Pensions to be paid half yearly.

Sections 9, 13, 14 and 15.
From what treasuries pensions to be issued; and what

article of revenue." It was further provided by Sections 13, 14, and 15, of Regulation 24, 1803, that all persons receiving pensions exceeding one hundred sicca rupees per annum, (except persons entitled to pensions described in the first rule, as property descendible to heirs) should attend the collector in person, at the stated periods, to receive the amount of their respective pensions; unless disabled by illness, or other sufficient cause; and that all pensions, not exceeding one hundred sicca rupees per annum, should be paid by the tehsceldar of the pergunnah in which the pensioners might reside; or if there be no tehseeldar, by any other trustworthy person. But under Sections 4 and 5, of Regulation 11, 1813, cited in the 12th and 13th rules for the payment of pensions in the lower provinces, the mode of payment therein stated, for pensions exceeding or not exceeding fifty rupees per annum, is established in all the provinces. *Fourthly.* The following rule is substituted for the fourteenth of the rules enacted for the lower provinces. "The continuance or discontinuance of all pensions, except those set forth" in the first rule, (viz: those declared to be hereditary property) "shall, after the death of the persons who now receive them, depend solely on the pleasure of Government; and shall not be subject to cognizance or determination in any court of justice. It shall be the duty of the collector to see that all just and authorized pensions are duly paid; and where any person may deem himself aggrieved by the act of the collector in respect to a pension, it shall be competent to him to sue for redress in the civil court of the district."

THERE being ground to believe that considerable abuses had been committed in the receipt of pensions, under the foregoing rules for all the provinces, to the prejudice of Government, who were thereby defrauded annually to a large amount; and it appearing essentially necessary to prevent the continuance of abuses of this description; the following provisions for that purpose were enacted in Sections 2 and 3, of Regulation 11, 1813, "to be in force throughout the provinces immediately dependent on the presidency

pensioners required to attend the collectors in person.

But Section 14 and 15, related by Sec. 5, Reg. 11, 1813; and general rules for paying pensions exceeding, or not exceeding fifty rupees per annum, established in all the provinces by Section 4 and 5 of that Regulation.

Section 16
Continuance of pensions on death of persons now receiving them, on whom to depend, and what cases subject to judicial cognisance.

Abuses committed in the receipt of pensions, under the rules, and the consequent provisions for their prevention, enacted in Sections 2, and 3, of Regulation 11, 1813.

presidency of Fort William, from the 1st October 1813."

§ 2. "The payment of pensions generally shall be stopped from and after the 1st of October next, until the individuals, by whom they may have been hitherto received, shall prove to the satisfaction of the Board of Revenue, or Board of Commissioners, through the medium of the collector of the district in which such individuals reside, that they were the original grantees; and as such adjudged entitled to the pensions hitherto received by them under the general regulations; or that they have been regularly declared entitled to succeed to the enjoyment of the said pensions. Provided, however, that this rule shall only be considered applicable to pensions of the description of those specified in Regulation 24, 1793; Regulation 34, 1795; Section 30, Regulation 12, 1805; and Regulation 21, 1803; and to pensions granted to natives lately in the service of Government for their subsistence, and to such as were heretofore issued from the Judicial and Commercial Departments, but have been lately ordered to be paid by the collectors of the land revenue; and shall not be considered to extend to stipends or pensions payable under existing treaties, or in conformity to arrangements adopted in the Political and Military Departments." § 3. *First.* "It shall be the duty of the collectors, in making the revision above prescribed of the pension list of their respective districts, to prepare an exact register of the individuals who, on such revision, may be deemed entitled to a continuance of the pensions hitherto received by them, in such form as may be deemed best calculated to identify the different individuals, and according to such instructions as they may receive on this point for their guidance, from the Board of Revenue, and Board of Commissioners, respectively." *Second.* "It shall likewise be the duty of the collectors to correct the said register carefully, as often as any pensions may revert wholly or in part to Government, or whenever other individuals, than those by whom the pensions are at present received, shall be adjudged entitled to the reversion of them." The following further provision is contained in Section 6, of the same regulation:—"With a view to the more effectual

Section 5.
Payment of
pensions is ge-
neral to be stop-
ped from and
after the 1st of
October 1813,
until due en-
quiry shall have
been made re-
specting the title
of the pension-
ers to the re-
ceipt of them.

To what de-
scription of pen-
sions the pre-
sent rules to be
applicable.

To what other
pensions they
are not to ex-
tend.

Section 3.
A register of in-
dividuals to be
prepared by the
collectors.

The collectors
to correct the
register when-
ever a pension
may revert to
Government,
&c.

Section 6.
A reward equi-
valent to the

effectual discovery and suppression of the abuses which, as noticed in the preamble to this regulation, have been committed with respect to the pension list, a reward shall be paid, equivalent to the amount of any pension for the period of six months, to any person who shall prove, through the regular channel, to the satisfaction of the Board of Revenue, or Board of Commissioners, that such pension is fraudulently or unduly received by the person enjoying the benefit of it."

amount of any pension for the period of six months, will be paid to any person, who may prove that the pension is fraudulently received.

It is unnecessary to offer any remark upon the equity, or policy, of this encouragement to the detection of frauds upon the public treasury, which, as justly observed in the preamble to Regulation 11, 1813, "in fact merit exemplary punishment;" though no express provision has been made for that purpose. It may be added, on a general review of the stated rules for the continuance or discontinuance of public pensions, that so far from being too strict and rigid, they are perhaps more open to the imputation of excessive lenity and indulgence; especially in the case of successors to *life pensioners*; when the nature of a pension payable from the public funds, and consequently chargeable on the public contributions, is duly considered. The chief, if not the only just, title to such a pension is public service. But few of the pensions granted under the former Governments, in the ceded and conquered provinces, or of the pensions formerly paid by the landholders in the lower provinces and Benares, and now issued from the public treasury under the rules which have been stated, can be supposed to have originated in any title of a public nature. At all events, when a pension is granted for life only, the family of the grantee can seldom have a claim to the continuance of it, except on humane and benevolent considerations, equally applicable to other objects of charity.*

Remark on above regulation to detect frauds on the public treasury.

And general observation upon the stated rules for pension; as more open to the imputation of excessive lenity, than of being too rigid.

It

* The total amount of pensions and charitable allowances, payable from the treasuries of the collectors, in the year 1814, according to the book of establishments for that year, was as follows:

Rules, comprised under the present head, do not relate to native officers, soldiers and others, on the military invalid establishment.

Provision made for 'suc', in land or money, will be stated in fourth part of this work. But Regulation 12, 1814, applicable to some of the persons to public servants, included under this head; and therefore stated in this place.

Preamble to Regulation 12, 1814 passed on the 27th May 1814, shewing the grounds on which it was enacted.

It may be proper to add, before I conclude the head of *Pensions*, that no part of the rules comprised in it relate to the allowances granted for the support of invalid native officers, and soldiers, or of any persons attached to the army, and placed on the invalid establishment, on account of age, infirmity, or otherwise. The provision made for such, whether in land or money, will be stated in the fourth part of this analysis, under the head of *provisions for tenures of invalid soldiers*. But Regulation 12, 1814, “for “securing to the invalid native officers, soldiers, *and others*, the “reduced pay or pension granted to them for their support on “retiring from service,” being applicable to all allowances granted on retirement from the public service, to persons amenable to the jurisdiction of the civil courts, in consideration of past services, and of infirmities or old age, for the personal support of such public servants, it may be usefully introduced in this place. It was enacted on the 27th May 1814, and the grounds of it are stated in the following preamble. “Whereas it is just and expedient that the reduced pay or pensions of invalid native officers, soldiers, and other persons, granted as a provision to worn out and disabled military and other public servants on their retirement from the service of the state, should be strictly and invariably applied to the purpose for which they have been granted by the beneficence of the Government, that is to say, to the support of the veteran, or old and infirm servant of the state, and not be liable to be diverted from that purpose for the discharge of previous debts, or in consequence of subsequent bargains or agreements, which the artifices of designing persons, practising on the simplicity of the invalid soldier and pensioner, may induce him to enter into; whereby the beneficent and charitable views of the Government are de-

	Sa	R.	A	P.
Bengal districts,.....per annum	2,42,414	8	4	
Behar ditto,.....	2,16,781	10	3	
Orissa ditto, including Cuttack	20,130	3	8	
Benares ditto.....	1,64,194	5	7	
Upper provinces,.....	12,55,216	5	0	
Total annual amount	18,98,767	0	10	

This sum however includes political stipends, payable by the collectors, amounting to rupees 6,62,735 14 per annum; and also some pensions, of a miscellaneous nature, to individuals in the service of Government.

feated,

feated, and the money of the state, which the liberality of the Government bestows on the veteran and worn out public servant, for his support and maintenance in old age and infirmities, is diverted to the use and benefit of persons who have no claim upon the state, nor right to be paid out of its resources ; therefore the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation."

§. 2. " The reduced pay or pension, however denominated, of invalid officers and soldiers and retainers of the army, being persons amenable by reason of their birth in India, or for other cause, to the jurisdiction of the courts of dewanny adawlut, or any other monthly or annual pecuniary allowance granted on retirement from the public service, by the authority of the Governor General in Council, to any person amenable to the jurisdiction of courts of dewanny adawlut, in consideration of past services and present infirmities, or old age, for the term of the life of such worn out or disabled officer, or public servant, is hereby declared not liable to seizure, attachment, or sequestration, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree, or order of court, nor any money due, or to become due on account of such pension or allowance; unless the same have been assigned or made over by the pensioner, by a writing under his signature, executed previous to the date of the promulgation of this regulation." § 3. " All assignments, bargains, sales, contracts, agreements, or securities, whatsoever, made after the date of the promulgation of this regulation, by such pensioner as described in the foregoing section, for any money to become due thereafter, on account of his pension, shall be null and void, and of no effect. But nothing herein contained shall be construed to prevent, or render null, the assignment of money due on account of a pension, or monthly or annual pecuniary allowance, by a writing under the signature of the pensioner, executed on or after the date when the same shall become due."

Section 6.
Pensions granted by Government to invalid native officers, and soldiers, or to other public servants, not to be seized, or attached at the instance of a creditor, or in satisfaction of a decree of court.

Exception in what case.

Section 3.
All assignments, bargains, sales, &c. which may be made by a pensioner after the date of the promulgation of this regulation, for money to be due thereafter on account of his pension, to be null and void and of no effect &c. In what case excepted.

has been or may be entered into with Government, by the proprietor, or by a farmer; or which may have been separately assessed with the public revenue, although no engagement shall have been executed to Government; as in cases where the estate may be held *khaus* by a *sezawul*, or other officer, on the part of Government; or be managed by a *serberakar* for the benefit of a disqualified proprietor." 2. *First*. The names of the estates in each *zillah*, of the lower provinces and Benares, "are to be arranged in alphabetical order, according to the English alphabet;" but in the upper provinces are directed to be arranged "according to the amount of the annual *jumma* assessed on each estate, commencing with the estate yielding the most considerable revenue to Government." *Second*. "Estates having names shall retain the names by which they are at present distinguished." *Third*. "Where it is the practice to vary the appellation of estates upon every change of the proprietors, such estates shall henceforth bear the names by which they are at present distinguished." *Fourth*. "Estates that have not been distinguished by any particular appellation, shall be named by the proprietor, or proprietors; and shall henceforth retain the name which may be so given to them. If any dispute shall arise between the proprietors of a joint estate, regarding the name to be given to the estate, it shall be determined by a majority of the proprietors present; with this provision, that where the votes and interest in the estate may be equal, or the proprietors shall neglect to give a name to the estate upon the requisition of the collector, he shall name the estate." 3. *First*. "Where estates in addition to their names, bear the distinguishing appellation of *talook*, *tuppa*, &c. they shall be placed on the register according to the initial letters of their names, and any such distinguishing appellations shall be inserted immediately after the names, as follows:—*AKEERPORE (tuppa, or talook,) &c.*" *Second*. "Where a *zemindary*, *talook*, or other land tenure, from whatever cause, shall have been, or may be, divided into a number of shares, each consisting of a specific and ascertained proportion of the ori-

Reg. 48, 1793, § 3 to 6. Reg. 19, 1795, § 3 to 6. Reg. 42, 1803, § 3 to 6. Name of estates how to be arranged.

Estates to retain their present

Estates, the name of which are added upon account of the practice to retain their present names.

Proprietors to name their estates, in the event of their not having been distinguished by any particular name.

Reg. 48, 1793, § 7 and Reg. 19, 1795, § 7. Amended by Act. 5, 1800, § 11, 12. Reg. 42, 1803, § 7, 8. Distinguishing appellations to be subjoined to the name of the estate.

Estates which form specific portions of *zemindaries* &c. to be stated under the original estate.

ginal estate, and the sharers shall have the separate possession of their shares, and shall have entered into distinct engagements with Government for the payment of the public revenue assessed upon their respective shares, so as to render each share a distinct estate, the shares shall be placed under the head of the zemindary, talook, or other land tenure, of which they originally constituted a part, as follows:—

AKBERPORE,

Six Annas,

Three Annas,

Seven Annas.”

Such estates, if not specific proportions, are to be registered under the head of the original estate.

Third. “If any lands, villages, or mchauls in an estate, not forming an ascertained and specific proportion of the whole estate, shall have been or may be transferred, either by public sale, or by any private act of the proprietor, and the new proprietor shall have entered into or may execute separate engagements to Government for the public revenue, the lands so transferred (which agreeably to the first rule will form a separate estate) shall not be inserted under the head of the zemindary, talook, or other land tenure, of which they originally formed a part, as directed with regard to the estates described in the preceding clause, but they shall be considered as original and distinct estates, and be named under the rules above prescribed for the naming of estates.” *Fourth.*

“If parts of the same estate shall be situated in different zillahs, and one engagement only shall have been executed by the proprietor to Government for the whole estate, in such case, the portions in each zillah shall be registered as *kismuls*, or parts of the estate, without any specification of the proportion that they may bear to the whole estate; which, under such circumstances, may not be ascertainable.” *Fifth.* “Under the head of each estate, shall be specified the names of all the pergunnahs, or other local divisions, arranged as directed in the second rule; together with the exact number of villages, or other subdivisions, appertaining to the estate.” *Sixth.* “Where estates consist of one, two, or more villages, not comprising a whole pergunnah, the name of the

Parts of the same estate in different zillahs, for which one engagement only has been given, are registered as *kismuls*, or portions.

Names of the pergunnahs, villages, &c. in each estate, to be specified.

Where estates consist of one or more villages, the name of the

pergunnah

pergunnah in which the estate may be situated shall be specified.”

pergunnah to be specified.

Reg. 48, 1793, § 8. Reg. 19, 1795, § 8. Jumma to be inserted opposite to each estate.

Reg. 48, 1793, § 9. Reg. 19, 1795, § 9. Reg. 42, 1803, § 9. Names of the proprietors of every estate to be inserted opposite to it.

Reg. 48, 1793, § 10, 11. Quinquennial registers in the several zillahs when to commence.

Registers to be numbered.

Reg. 12, 1805, § 10 and 11. Collectors of Cuttack to be guided by the regulations in force in Bengal, in preparing the different registers of landed property; with a provision that the first periodical register to

4. “The annual revenue assessed upon each estate, or (where parts of an entire estate may be situated in different zillahs) portion of an estate, is to be inserted opposite to it in a separate column.* 5. “The name or names of the proprietor or proprietors of every estate shall be inserted opposite to the estate; and if the estate be let in farm, the name of the farmer shall be specified.” 6. *First.* “The quinquennial register to be first formed for the zillahs in Bengal, Behar, and Orissa, shall commence with the Bengal, Fussily, and Willaity year 1202; and shall exhibit the estates in the several zillahs, and the required particulars respecting them, as they may stand at the commencement of that year of the era current in each province. Upon this register being completed, a similar register shall be forthwith formed to commence with the year 1197; and shew the estates in the several zillahs as they stood at the commencement of that year of each era, being the first of the decennial settlement. The quinquennial register to be formed at the commencement of the year 1207, of the era current in each province, and every succeeding five years, is to exhibit the estates in each zillah, as they may stand at that and each subsequent period. The register to be first formed, and to commence with the Bengal, Fussily and Willaity year 1202, is to be numbered *two*. The register to be next formed commencing with the year 1197, of each era, is to be numbered *one*. The register to be formed at the commencement of the year 1207, of the respective eras, is to be numbered *three*; and every subsequent quinquennial register in the order in which it may be formed.” *Second.* “The collectors of the revenue in the zillah of Cuttack shall be guided in preparing the different registers of landed property in that zillah by the regulations in force for that purpose in the province of Bengal; provided however, that the first periodical register to be prepared shall commence with the Willaity year 1216; and shall exhibit the estates and the required particulars

* This rule, by an apparent inadvertency, is omitted in Regulation 42, 1813, for the ceded provinces.

be prepared,
shall commence
with the Will-
lity year 1216.

How the regis-
ters are to be
numbered.

Reg. 19, 1795
§ 10, 11.
Quinquennial
register when to
commence in
the province of
Benares.

Registers how to
be numbered.

Reg. 40, 1803.
§ 12, 11.
Periodical regis-
ter, when to
commence in
the provinces
ceded by the
Newab Vizier.

respecting them as they may stand at the commencement of that year. The periodical register to be formed at the commencement of the Willaity year 1211, and every succeeding five years, shall exhibit the estates as they may stand at that and each subsequent period. The register to be first formed, and to commence with the Willaity year 1216, shall be numbered *two*; the register to be next formed, commencing with the Willaity year 1211, shall be numbered *one*; the register to be next formed at the commencement of the Willaity year 1221, shall be numbered *three*; and every subsequent periodical register, in the order in which it may be formed." *Third.* "The quinquennial register to be first formed for the province of Benares, shall commence with the Fussily year 1202, and shall exhibit the estates, and the required particulars respecting them, as they may stand at the end of that year. Upon this register being completed, a similar register shall be forthwith formed to commence with the year 1197; and shew the estates in the several sircars, as they stood at the end of that year, being the first of the quartennial and decennial settlements. The quinquennial register to be formed at the commencement of the year 1207 of the Fussily era, and every succeeding five years, is to exhibit the estates in the province as they may stand at that, and each subsequent period. The register to be first formed, and to commence with the Fussily year 1202, is to be numbered *two*. The register to be next formed, commencing with the year 1197, is to be numbered *one*. The register to be formed at the commencement of 1207, is to be numbered *three*; and every subsequent quinquennial register, in the order in which it may be formed." *Fourth.* "The periodical register to be first formed for the zillahs in the provinces ceded by the Newab Vizeer to the English East India Company, shall commence with the Fussily year 1215; and shall exhibit the estates in the several zillahs, and the required particulars respecting them, as they may stand at the commencement of that year. Upon this register being completed, a similar register shall be forthwith formed to commence with the Fussily year 1210, and shew the estates in

the

the several zillahs as they stood at the commencement of that year. The periodical register to be formed at the commencement of the Fussily year 1210, and every succeeding five years, shall exhibit the estates in each zillah, as they may stand at that, and each subsequent period. The register to be first formed, and to commence with the Fussily year 1215, shall be numbered *two*. The register to be next formed, commencing with the Fussily year 1210, shall be numbered *one*. The register to be formed at the commencement of the Fussily year 1220, shall be numbered *three*; and every subsequent periodical register in the order in which it may be formed.”* 7. “The register for each zillah is to be written on English paper, of the exact size of that on which the form hereafter directed to be prepared by the Board of Revenue may be written, and is to be bound up in one volume, on the back of which there shall be the following inscription: “*Register of estates paying revenue to Government in the zillah of ——— at the commencement of the year ———, (Bengal, Fussily, or Willaity era); corresponding with the year of our Lord ———. Number —*” 8. “When the draught of the quinquennial register is completed, it is to be transcribed into a book of the prescribed dimensions; each leaf of which shall be previously paged, and be signed by the judge of the dewanny adawlut of the zillah; and on the last leaf of the book the judge is to specify, in his own hand writing, the number of pages contained in it; and no register shall be considered as authentic but such as may be entered in a book so paged and attested.” 9. “It shall be the duty of the keepers of the native records, appointed under Regulations 21, 1793 and 23, 1803, to keep in the Persian language an exact counterpart of the English register in each zillah, in a volume of such dimensions as the Board of Revenue may prescribe; and which shall be paged, and be attested by the judge of the dewanny adawlut of the zillah, in the same manner as the

Registers how
to be number-
ed.

Reg. 42, 1793,
§ 12, Reg 19,
1795. § 12
Reg. 42, 1803,
§ 12
Size of the pa-
per for the re-
gister.

Sec 13 of each
regulation above
noticed.

N register to
be considered as
authentic ex-
cepting such as
may be paged
and signed.

Leaves of the
register to be
paged, and to
be signed by the
judge of the
zillah.

Sec 14 and 15,
of above regu-
lations, and
Reg 8, 1803, §
15
Counterpart re-
gister in the na-
tive languages
to be kept by
the keepers of
the native re-
cords.

* The provisions of Regulation 42, 1803, were extended by Section 27, Regulation 8, 1805, to the provinces ceded by DOULUT RAO SINDHERA, and the Peshwa: but without any specification of the period for the first register. The first settlement of these provinces commenced with the Fussily year 1213, as before stated.

books containing the English registers; and no other counterparts of the registers of estates shall be considered as authentic, but such as may be entered in a book so paged and attested."

Reg 43, 1793.
§ 16, Reg 19,
1790. § 16,
Reg 8, 1800,
§ 14, Reg 40,
1800. § 16
Manner in
which the mu-
tations in pro-
perty, in the in-
tervals between
the forming of
each periodical
register, are to
be recorded.

10. *First.* "For the purpose of recording the divisions of estates, or the transfers of estates, or portions of estates, or the union of estates that originally formed a part of the same zemindary, talook, or other land tenure, which may take place during the five years subsequent to the forming of each periodical register, the collectors shall prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated the *Register of intermediate mutations in landed property*, and have the following inscription on the book: *Register of intermediate mutations in landed property between the commencement of the year ———, and the expiration of the year ———, (Bengal Fussily, or Willaity era).* Previous to any entries being made in this register, it shall be paged, and the judge of the court of adawlut of the zillah shall sign each leaf of it; and on the last leaf specify, in his own hand-writing, the number of pages contained in the book. The collector shall cause to be entered in this register all divisions of estates, or transfers of estates, or portions of estates, and every union of estates which originally constituted a part of the same zemindary, talook, or other land tenure, that may take place during the five years subsequent to the formation of each periodical register; with the authority by which the same may have been made; and all the particulars necessary for making the required entries in the next periodical registers; and shall attest the entry with his signature." *Second.* "The register of intermediate mutations in landed property, directed to be kept by the foregoing clause, is meant to include all alterations in any of the entries in the periodical registers which may take place within the periods at which these registers are directed to be prepared. All alterations in the amount of the annual revenue assessed upon estates shall accordingly be stated in the registers abovementioned; whether proceeding from an allotment of the fixed assessment upon portions of

All alterations
in the annual
revenue, in
the particulars
thereof, to be
entered in the
register of inter-
mediate muta-
tions.

of divided estates, or from an increase or decrease of the assessment upon any estate. In all such cases, the particulars of the allotment, increase, or decrease, shall be clearly stated in the register of intermediate mutations; and whenever an abatement of revenue may be inserted, the authority for such abatement shall be invariably quoted, with the date on which it may have been granted by the Governor General in Council, and communicated by the Board of Revenue, or Board of Commissioners." 11. "Whenever any estates, or portions of estates, shall be directed to be separated from one zillah, and annexed to another, the collector of the zillah, from which the separation may be ordered to take place, shall transmit to the collector of the zillah to which the annexation is to be made, a copy of the entries in the last periodical register formed prior to the separation, which may relate to the several estates, or portions of estates to be separated; and of any entries respecting them in the register of intermediate mutations, which may have taken place subsequent to the forming of the last periodical register. These documents shall be entered by the collector of the zillah to which the annexations may be directed to be made, in the register of intermediate mutations in his zillah, as materials for forming the next periodical register." 12. "The Governor General in Council will direct the order for the separations and annexations specified in the preceding article, to be notified to the courts of judicature from the jurisdiction of which the separation is to take place; and also to the courts to the jurisdiction of which the annexation is to be made. Upon the arrival of the period when the separation and annexation is to be carried into effect, the collector of the zillah, from which the separation may be made, shall transmit to the judge of the court of adawlut of his zillah, and also to the provincial court of appeal, copies of the entries in the last periodical register, and register of intermediate mutations, which may relate to the estates or portions of estates to be separated from his zillah; and the collector, to whose zillah the annexation may be made, shall transmit copies of the abovementioned

R. g. 48, 1793,
§ 17, R. g. 48,
1803, § 17.
Documents to
be furnished by
the collectors of
zillahs from
which separati-
ons may be
made.

Reg. 48, 1793,
§ 18, Reg. 48,
1803, § 18.
How separati-
ons and annex-
tions, affecting
the jurisdictions
of the courts,
are to be made
known to them.

Courts how to
proceed with
respect to de-
pending causes.

Reg. 48, 1793,
§ 19. Reg. 19,
1795, § 17, Reg.
42, 1803, § 19.
Further rules to
be observed in
keeping the re-
gister or inter-
mediate muta-
tions in prop-
erty.

Reg. 48, 1793,
§ 20, Reg. 19,
1795, § 18,
Reg. 42, 1803,
§ 20.
Counterpart of
the English re-
gister of inter-
mediate muta-
tions in prop-
erty to be kept by
the keepers of
native records.

Reg. 48, 1793,
§ 21, Reg. 19,
1795, § 19,
Reg. 42, 1803,
§ 21.

tioned entries (with which he is directed to be furnished by the preceding rule) to the judge of his zillah, and to the provincial court of appeal. Immediately upon the receipt of these papers, the courts, from the jurisdiction of which the separations may be made, shall transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other provincial court of appeal, or zillah court, to such court, and to cause notification thereof to be communicated to the parties in writing." 13. "To facilitate reference, as well as the preparing of the new periodical register at the end of every five years, the collector shall insert, in the preceding periodical register, in red ink, opposite to the name of the estate in the property in which any alteration may have taken place, the number of the place in the register of intermediate mutations in which the alteration may be noted, and at the end of the note of the alteration in the last mentioned register he shall insert, in red ink, the number of the page in which the estate may be registered in the periodical register; and every such entry shall be signed by the collector, who shall be responsible for the entry being truly and accurately made. The note of the alteration to be entered in the register of intermediate mutations shall specify the requisite particulars for completing the entries in the next periodical register; or refer to them, if they be contained in the preceding periodical register. The collectors are strictly enjoined never to allow the register of intermediate mutations to fall in arrear; but to make the necessary entries immediately upon any mutation in property, or any separation or annexation of lands from or to their respective zillahs, being notified to them." 14. "A counterpart of the register of intermediate mutations in landed property shall be kept by the keepers of the native records, in the same form as the English register, and in a book, the leaves of which shall in like manner be paged and attested by the judge of the zillah." 15. "When a periodical register shall have been transcribed fair into the book attested by the judge of the zillah, if it shall be discovered that the entires respecting any

estate are erroneous or incomplete, or that there are any material inaccuracies of the transcriber, the entries shall not be altered or erased; but shall stand; and the collector shall cause the errors or omissions to be noted in the register of intermediate mutations, and attest the entry with his signature; and insert, in red ink, opposite to the erroneous or incomplete entry in the quinquennial register, the number of the page in the register of intermediate mutations in which the errors or omissions are noted; and at the end of the note, specify the number of the page of the periodical register in which the property may be registered. Errors or omissions in the register of intermediate mutations shall be noted in a similar manner." 16. "Erroneous or incomplete entries, in the counterparts of the registers to be kept by the keepers of the native records, are to be noted by them in the same manner as the collector is directed to note erroneous entries in the English registers. But the note of every such entry, in the counterpart of the register of intermediate mutations in the Persian language, shall, in addition to the attestation of the keepers of the native records, be signed by the collector." 17. "If the proprietary right in an estate, or the part of an estate, shall be under litigation in a court of justice, at the time of forming the first, or any subsequent periodical register, the party in possession shall be registered as the proprietor." 18. *First.* "The collectors will be furnished, through the following channels, with the necessary information regarding the mutations in landed property, and the annexations to, or separations from, their respective zillahs, for making the requisite entries in the register of intermediate mutations." *Second.* "The zillah courts are required to transmit to them copies of decrees which they may pass, or which may be sent to them to be enforced, by the provincial courts of appeal, or the Sudder Dewanny Adawlut, in any respect relating to the proprietary right in lands paying revenue to Government." *Third.* "The Board of Revenue shall furnish them with the necessary particulars regarding all such lands as may be disposed of by them at public sale at Calcutta." *Fourth.* "In cases in

How errors in the fair copy of the periodical register and in the register of intermediate mutations are to be noted.

Reg. 48, 1793
§ 22 Reg. 19,
1795, § 20.
Reg. 42, 1803,
§ 22.

Similar rule with regard to errors in the counterpart of the periodical register, and register of intermediate mutations, in the Persian language.

Reg. 18, 1793,
§ 23 Reg. 19,
1795, § 21.
Reg. 42, 1803,
§ 23.

Where the titles to the estates are disputed, the party in possession to be registered as the proprietor.

Reg. 48, 1793,
§ 24 Reg. 19,
1795, § 22.
Reg. 42, 1803,
§ 24.

Collector from whence to be furnished with the necessary information for making the entries in the register of mutations in property.

which lands may be ordered to be sold at their cutcherries, they will have in their own possession the authority for the sale, and all the necessary information regarding the property transferred."

Fifth. "They will likewise have in their possession the requisite information respecting the division or the union of estates, which may take place under the regulations, which direct that the division and union of all estates shall be made under their superintendence." *Sixth.* "By Regulations 1, 1793, 27, 1795, and 25, 1803, transfers of estates, or portions of estates, must be notified to them, before the name of the new proprietor can be inserted in the register directed." *Seventh.* "The keepers of the registers, established by Regulations 36, 1793, and 17, 1803, shall furnish them with the particulars of all transfers of landed property which may be entered in their registers." 19. "If a collector shall have occasion to require from the proprietor or the farmer of an estate, or from a dependent talookdar, or underfarmer, any information which may be necessary to enable him to form a periodical register, or to make the requisite entries in the register of intermediate mutations, and such person shall omit to furnish it by the time required, after having been served by the collector with a written requisition for that purpose, under his official seal and signature, the collector shall report the circumstances to the Board of Revenue, (or Board of Commissioners,) for the information of the Governor General in Council; who reserves to himself the power of imposing on such person whatever fine may appear proper upon a consideration of the case, and his situation and circumstances in life. Upon receiving notice through the Board of Revenue, (or Board of Commissioners,) of any such fines which may be imposed by the Governor General in Council, the collector shall levy the amount by the same process as he is authorized to have recourse to for the recovery of arrears of revenue."

20. *First.* "The collectors of the several zillahs shall transmit, as early as may be practicable, to the Board of Revenue, or Board of Commissioners, an attested copy of the periodical registers, both in the English and the Persian languages, each in a book of the prescribed

Reg. 48, 1793,
§ 25 Reg. 19,
1795, § 23
Reg. 42, 1803,
§ 25
Proprietors &c.
liable to be
fined for omit-
ting to furnish
any information
that may
be required by
the collectors
for preparing
the registers.

Reg. 48, 1793,
§ 26 Reg. 19,
1795, § 24.
Reg. 8, 1800,
§ 16, Reg. 42,
1803, § 26.
Collectors to
send duplicates
of each periodical
register to

prescribed size, paged and attested by the judge of the zillah, in the same manner as the original register; and within one month after the expiration of the third, sixth, ninth, and twelfth months of the Bengal, Fussily; or Willaity year, an attested copy of the entries in the register of intermediate mutations, which may have taken place during the three preceding months." *Second.* "The copy of the periodical registers directed to be transmitted to the Board of Revenue, or Board of Commissioners, by the foregoing clause, shall be sent through the channel of the accountant to each Board; who shall report to the Board any instances of the prescribed quarterly copies not having been received at the fixed periods; or of the quinquennial copies of the registers not having been received within the year, at the commencement of which the quinquennial registers are directed to be prepared; and shall return to the collectors, for correction, any copies of registers received from them which may not have been prepared according to the prescribed forms. The accountant shall also compare the assessment stated in the registers of estates paying revenue, with the accounts of the existing settlement in his office, as well as with any accounts or information which may, from time to time, be communicated to him by the Board, of any authorized alterations in the assessment, whether from allotments of the assessment upon divisions of estates, or from any increase or decrease of assessment from whatever cause; and the secretaries to the Board of Revenue, and Board of Commissioners, will be careful, that the accountant is regularly informed of all such alterations which may be authorized. When the collector may have omitted only to quote the authority for such alterations in his register of intermediate mutations, the copy of the register shall be returned to him by the accountant to supply the omission; but if, in any case, it shall appear to the accountant, that the collector has stated any alteration in the assessment of an estate without due authority, he shall report the same to the Board of Revenue, or Board of Commissioners, with any explanation given by the collector, for such orders as may be necessary; or for the determination of the Governor General in Council."

the Board of
Revenue, or
Board of Com-
missioners.

The above du-
plicates to be
sent through the
channel of the
accountant to
the Board of Re-
venue. The ac-
countant shall
examine them,
and, in certain
cases, report
thereon.

Reg. 8, 1800,
§ 15 Reg. 48,
1803, § 26,
C1 3

The courts of
judicature how
to proceed
whenever they
have occasion to
refer to any of
the registers.

Courts to re-
port to Govern-
ment the expla-
nations given
by collectors
for not having
the registers
completed
within the pre-
scribed periods.

Collectors, on
taking collec-
tors, on taking
charge, to ascer-
tain whether
the registers
have been duly
prepared; and
to report the
same to the
Board of Reve-
nue for the in-
formation of
the Govern-
ment.

Reg. 48, 1793,
§ 27. Reg. 39,
1795, § 25.
Reg. 48, 1803,
§ 27.

The Board of
Revenue, Board
of Commissioners,
and collec-
tors, to be care-
ful to preserve
the old quin-
quennial regis-
ters and registers
of mutations.

Council.” 21. “Whenever the zillah courts, or the provincial courts of appeal, may have occasion to refer to any of the registers prescribed by the present rules, they are authorized to require from the collectors the production of the original register, or an attested copy of such part thereof as may contain the required information. The collectors, on the receipt of such requisition, shall immediately transmit the original register, if it can be sent without inconvenience, under the care of one of their native officers, in whose custody it is to remain till returned; or, if the original register cannot be conveniently sent, shall transmit, without delay, an accurate copy of such part thereof as may be required, under the attestation of their official signature. In like manner, the Board of Revenue, or Board of Commissioners, on the requisition of the Court of Sudder Dewanny Adawlut, shall furnish any zillah register received by them which may be required by that Court; or a copy, attested by the signature of their secretary, or accountant, of any part thereof which may be required. In the event of any register required by a court of justice not having been prepared, and the period fixed for its preparation having elapsed, the collector shall explain to the court the cause of such register not having been prepared, and the explanation so given shall be transmitted by the Court receiving it to the Governor General in Council. Any person succeeding to the office of collector, or invested with the temporary charge of such office, is also required, immediately on his taking charge, to ascertain whether the prescribed registers have been duly prepared; and if not, to report the same to the Board of Revenue, or Board of Commissioners, with any explanation he may have received of the omission, for the information of the Governor General in Council.” 22. “The Board of Revenue, Board of Commissioners, and collectors, are enjoined to be particularly attentive to the preservation of the quinquennial register, and registers of intermediate mutations, both in the English and Persian languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated

calculated to prevent their being destroyed by insects. 23. The Board of Revenue were further directed by Section 28, Regulation 48, 1793, Section 26, Regulation 19, 1795, and Section 28, Regulation 42, 1803, to prepare forms for the prescribed quinquennial register, and register of intermediate mutations; and after submitting them for the approbation of the Governor General in Council to circulate copies for the guidance of the collectors. It was added, "the approved form shall not be altered without the sanction of the Governor General in Council; but the Board of Revenue are at liberty to suggest any improvements in the forms, which may occasionally occur to them; and in the event of their being adopted, they shall take place from the period fixed for forming the next periodical register, or at such other period as may be deemed advisable." 24. "In the concluding section of the several regulations abovementioned it was provided that no part of them should be considered "to preclude any person who may deem himself entitled to any estate, or portion of an estate, paying revenue to Government, which may be entered in the quinquennial register, or the register of intermediate mutations, as the property of any other person or persons, from suing for the same in the Court of Dewanny Adawlut, in which the claim may be cognizable."

Reg. 48, 1793,
§ 28. Reg. 19,
1795, § 26.
Reg. 42, 1803,
§ 28
Board of Revenue
to prepare
a form for the
quinquennial
register and for
the register of
intermediate
mutations in
property.

Reg. 48, 1793,
§ 30. Reg. 19,
1795, § 28. Reg.
42, 1803, § 44.
All persons at
liberty to sue
for any landed
property regis-
tered in the
name of ano-
ther.

THE following rules are prescribed for a periodical register of lands held exempt from the payment of revenue, under grants not being *Badshahee*, or royal. 1. That Government and its officers, may, at all future periods, have in their possession, a complete register of the lands, in every province, held exempt from the payment of revenue, under grants not being *Badshahee*, or royal, and with a view to prevent any such grants being made in future, a register of all lands held exempt from the payment of revenue under grants of this description made previously to the 1st December 1790, in the provinces of Bengal, Behar, and Orissa, (exclusive of Cuttack), or previously to the 14th October 1803 in the district of Cuttack, or before the Fussily year 1196 in the province of Bena-

Rules for a pe-
riodical register
of lands held
exempt from the
payment of re-
venue, under
grants not *Bad-
shahee*.

Reg. 19, 1793,
§ 22. Reg. 42,
1795, § 22.
Reg. 8, 1800 §
11, 12. Reg. 31,
1803, § 17.
Reg. 8, 1805, §
21. Reg. 21.
Reg. 12, 1806,
§ 24.
Register of
lands exempt
from the pay-
ment of Re-
venue to be for-
med every five
years.

Contents of the
Registers,

Collectors en-
joined to take
the utmost care
that the con-
tents of the re-
gister exactly
conform to the
pergunnah register,
and are to fur-
nish the offi-
cers appointed
to prepare the
register with
particular in-
structions for
this purpose.

Denomination
of the registers.

Reg. 10, 1793,
§ 23 Reg. 41,
1795, § 23
Reg. 3, 1803,
§ 18,
Board of Re-
venue to prepare a
form for the
periodical re-
gister
Collectors to
adhere to the
form

Reg. 19, 1793,
§ 24 Reg. 41,
1795, § 24
Reg. 31, 1803,
§ 19
Holders of lands
exempt from
the payment of
revenue allowed

res, or before the 1st January 1801 in the provinces ceded by the Newab Vizeer, and the 1st January 1803, in the provinces ceded by DOULUT RAO SINDHUR, and the Peshwa, or since exempted by the authority of Government* is to be formed in each district every five years. "The register is to specify the denomination of each grant, whether *birmooter*, *bishunpereet*, *kishnarpun*, or other tenure; the names of the grantor, the original grantee, and the person in possession; and if the person in possession be not the original grantee, his relationship to him, if any relationship exists; and in virtue of what right he succeeded to the grant; the date of the grant; the name of the pergunnah, (or other local division where there may be no pergunnah) in which the land granted may be situated, with the exact number of villages, or other subdivisions, comprised therein, as particularized in the pergunnah register, directed to be kept by Regulations 8, 1800, and 42, 1803. The collectors are enjoined to take the utmost care that the names of the pergunnahs, (or other local divisions where there may be no pergunnahs) as well as the number of villages or other subdivisions stated to be in each, are exactly conformable to the pergunnah register; and are to furnish their native officers appointed to prepare the counterpart registers with particular instructions for this purpose." The register is to be denominated the "periodical register of lands held exempt from the payment of revenue under grants not being Badshahee, or royal grants."

2. The Board of Revenue were directed by the regulations notified in the margin to prepare a form for the periodical register, and transmit a copy of it for the guidance of the collectors; who were strictly enjoined to adhere to it. 3. All persons actually holding lands exempt from the payment of public revenue, in virtue of grants made previously to the dates above specified, and whether made or confirmed by the Government of the country for the time being, or by any other authority, were allowed one year from the date of the publication prescribed in the following rule,

* This latter provision is inserted in Section 17, Regulation 31, 1803, for the upper provinces only: but it is evidently applicable to lands exempted by the authority of Government in all the provinces.

to register the required particulars respecting their grants in the office of the collector of the revenue of the zillah in which the lands may be situated. 4. To prevent any pleas being hereafter urged of ignorance, the collector of each zillah was directed to cause the following publication, in the Persian, and Bengal languages in the province of Bengal, and in the Persian and Hindoostanee languages in the other provinces, attested with their official seals and signatures, “to be fixed up in the principal cutcherry of every proprietor, and farmer of land, in the zillah, paying revenue immediately to Government; of every tehseeldar; and of every native collector in lands held khaus by Government;” and, where the estate of any proprietor with whom a settlement had been concluded, or the farm of any farmer, or lands held khaus, might consist of two or more whole pergunnahs, or portions of pergunnahs, the collector was instructed to “cause the publication to be fixed up in the principal cutcherry in each pergunnah, or portion of a pergunnah, comprised in such estate, farm, or khaus lands, and take a receipt, specifying the date on which the publication may be fixed up, from such proprietor, farmer, or native officer;” who were respectively “held responsible for the paper remaining so affixed for one year from the date of it.” The collectors were further required to cause the prescribed publication to be fixed up in their own cutcherries, and in the cutcherries of the courts of judicature within their respective zillahs, for general information. “In conformity to regulation—every person being actually in possession of *birmooter*, *bishunpereet*, *kishnarpun*, or other land, now exempt from the payment of revenue, in the estate of ———, or the farm of ———, or the khaus lands under the charge of ———, and which may be held in virtue of any grant made previously to (*the date specified in the first rule for each province*) corresponding with the (*Bengal, Fussily, or Willaity era,*) and whether made or confirmed by the Government of the country for the time being, or its officers, or any other authority, are required to register the following particulars respecting such lands in the office of the collector of the zillah, before

ed one year to register them from the time specified in Section 20.

Reg. 19, 1792, § 25. R. G. 41, 1795, § 25. Reg. 31, 1803, § 20.

Publication to be made, requiring all persons to register their grants.

The prescribed publication to be fixed up in the cutcherries of the collectors, and the courts of judicature.

Terms of publication.

fore the expiration of one year from the date of this publication. If any holders of such grants shall not so register their grants either in person, or by vakeel, with a vukalutnamah attested by two credible witnesses, and given for the express purpose of registering the grant, the lands will be considered liable to the payment of revenue, in the same manner as if they had been adjudged to be so by a final decree of a court of judicature. Persons having claims only to hold land exempt from the payment of revenue, but who do not now hold the lands exempt from the payment of revenue, are not to register the land so claimed by them."

" Denomination of the grant, whether *bishunpereet*, *birmooler*, *kishnarpun*, or other tenure.

Name of the grantor.

Name of the original grantee.

Name of the present possessor ; and if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily, or by purchase, or what other mode.

Date of the deed, if the grant be in writing ; and if not, the date on which the grant was made.

The name or names of the village or villages comprised in the grant, or in which the land may be situated.

The measurement of each village, or the villages, or the land, included in the grant

The pergunnah or pergunnahs in which the lands may be situated.

A copy of the original grant, or other writings, under which the land may be held."*

5. If

* The following extract of a letter from the Governor General in Council to the Board of Revenue, dated 20th November 1795, was circulated by the Board for the guidance of the collectors in registering lands under the Section referred to. " The 25th Section of the 19th Regulation of 1793 evidently enjoins the registry of all title deeds and documents whatever, for lands actually held exempt from the payment of public

5. "If any person in possession of any such grant of land now held exempt from the payment of revenue, shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the grant shall, by such omission, become subject to the payment of revenue, in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a court of judicature; and the collector shall proceed to assess the land accordingly. The Governor General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause to his satisfaction for not having registered it within the limited period; and the Board of Revenue (or Board of Commissioner-) are to report to the Governor General in Council every case in which persons who may have omitted to register their grants, as required, may appear to them entitled to have their grants admitted upon the register."* 6. *First.* "After the expiration of the period limit-

public revenue. But you will particularly observe, and point out to the collector of Dinagepore, and if necessary to the collectors of the other zillahs, that deeds for lands not now actually held exempt from the payment of revenue are not to be registered. As Government relinquished the right to subject to the payment of revenue lands actually held exempt, until the titles of the possessors should be proved invalid under the regulations by a final judicial decree, justice to the public required that all lands actually charged with revenue should continue to pay the fixed assessment, until individuals, claiming a right to hold them exempted, should prove the validity of their title under the same regulations, and by a similar process. The regulation above mentioned therefore limited the registry to deeds regarding lands actually held free of revenue; and prohibited the registry of deeds relating to lands only claimed to be so held; which, until finally adjudged to be exempted, are to be considered as malguzary or revenue lands."

* It appearing that the publications ordered in the fourth rule had not, in many instances, been issued according to the prescribed forms, a second publication, allowing a further period of one year from the date of it, for the registry of the lands therein referred to, was directed, in the lower provinces and Benares, by Section 19, Regulation 8, 1800; and in the upper provinces, by Section 2, Regulation 7, 1808. It was at the same time declared, that after the expiration of the periods limited by these publications, any unregistered land, found to be held exempt from the payment of revenue, would be liable to assessment; and the collectors were instructed, on the discovery of any such lands, to proceed to the assessment of them, in conformity with the regulations.

Reg 17, 1798
§ 16 Reg 41
1798, § 26.
Reg 31, 1803,
§ 21
Lands not registered within the prescribed time declared subject to the payment of revenue, unless the Governor General in Council shall admit them upon the register.

Reg 19 1798
§ 27. Reg 41

1795, § 27.
Reg 18, 1795,
§ 2. Reg 31,
1803, § 22.
Grants not re-
gistered within
the prescribed
period, or ad-
mitted by the
Governor Ge-
neral in Coun-
cil, to be con-
sidered invalid.
Collectors to
receive a com-
mission of 25
per cent on
jumma of lands
assessed under
this rule.

Reg 19, 1793,
§ 28. Reg 41,
1795, § 2.
Reg 31, 1803,
§ 23.
Registry of
lands not to be
considered as
an admission of
the possessor's
proprietary
right in the
soil, nor of his
title to hold the
land exempt
from the pay-
ment of reve-
nue.

Reg 19, 1795,
§ 29. Reg 41,
1795, § 20.
Reg 31, 1803,
§ 24.
Collectors to
prepare the re-
gister upon the
expiration of
the period
limited for the
registry of the
grants.
Inscription on
the back of the
register.

Book to be pag-
ed, and each
page to be at-
tested by the
judge of the
zillah.

ed for registering grants, all grants not registered within the pre-
scribed time, and which may not be subsequently admitted on
the register by the Governor General in Council, are declared in-
valid, as far as regards the exemption from the payment of reve-
nue; and the land shall be assessed with revenue, as above direct-
ed." *Second.* "The collectors shall receive a commission of
twenty-five per cent on the amount of the annual jumma which
may be assessed on lands finally resumed and declared liable to
be assessed with public revenue under this rule. The commissi-
on shall be paid to the collector who shall discover and report to
the Board of Revenue the omission of the registry of the lands,
unless the Governor General in Council should deem it equitable,
in any particular case, to give the whole or a part of the com-
mission to any other collector. 7. "It is expressly declared
however, that the registry of grants under this regulation is not
to be considered as an admission of the right of the person in
whose name they may be registered to the property in the soil,
or of his title to hold the lands exempt from the payment of
revenue. Any person will be at liberty to sue him in the court
of adawlut for the former; and he will be liable to be sued for the
recovery of the latter by the collector, with the sanction of the
Board of Revenue, (or Board of Commissioner,) in the event of
its appearing to the Board, that the lands are liable to the pay-
ment of revenue." 8. "Upon the expiration of the period for
registering the grant, in each zillah, the collector shall prepare a
draught of the register in the form which may be prescribed by
the Board of Revenue, and cause it to be transcribed into a book
of such dimensions as they may direct. The book shall have the
following inscription on the back of it:—*Periodical register, form-
ed under regulation — of lands held exempt from the payment
of revenue, under grants not badshahee or royal, in the zillah of —,*
at the commencement of the (Bengal, Fussily, or Willaity
year —,) corresponding with the year of our Lord —;
Number —. Each leaf of the book shall be paged, and be
signed by the judge of the zillah; and on the last leaf of the book

he is to note, in his own hand-writing, the number of pages in the book, and subscribe the note with his signature; and no register is to be deemed authentic, but such as may be entered in a book so paged and attested. The first periodical register is to be numbered *one*." 9. The second periodical register is to commence with the year 1207, of the era current in each province; except the upper provinces, in which it is to commence with the Fussily year 1215. "This register is to be numbered *two*, and the periodical registers to be prepared, at the commencement of every subsequent five years, are to be numbered in the order in which they may be formed." 10. "The keepers of the native records are to keep an exact counterpart of the English periodical register, in a volume of such dimensions as the Board of Revenue may prescribe; and which shall be paged, and be attested by the judge of the zillah, in the same manner as the books containing the English registers; and no other counterparts of the registers of estates shall be considered as authentic, but such as may be entered in a book so paged and attested. The counterpart register is to be kept in the Persian language." 11. "For the purpose of recording all resumptions, or other occurrences respecting the lands which form the subject of this regulation, that may take place during the interval of the five years between the forming of each periodical register, and the particulars of which will be necessary for forming the second and all future periodical registers, the collectors are to prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated the *Register of intermediate resumptions, or other occurrences respecting grants of exempted land not badshahce*; and shall have the following inscription on the back, *Register formed under Regulation — of intermediate resumptions or other occurrences respecting lands held exempt from the payment of revenue, under grants not badshahce or royal, in the zillah of —, between the commencement of the year —, and the end of the year — (Bengal, Fussilly or Wilaity)* Previously to any entries being made in this register, it is to be paged, and the judge of the zillah is to sign each leaf of it; and on the last leaf note, in his own hand

writing,

Judge to specify the number of pages in the book on the last leaf.

Reg 19, 1793, § 31. Reg 41, 1797, § 30. Reg 31, 1803, § 25.

Second periodical register to commence with the year 1215.

To be numbered two, and the subsequent registers in their order.

Reg 19, 1793, § 31, 32. Reg 41, 1797, § 31, 32. Reg 8, 1800, § 15. Reg 31, 1803, § 26, 27.

Counterpart register in the native language to be kept by the keepers of the native records.

In what language the counterpart register is to be kept.

Reg 19, 1793, § 33. Reg 41, 1797, § 33. Reg 31, 1803, § 28.

Manner in which resumptions and other occurrences regarding exempted lands, in the intervals between the forming of the periodical registers, are to be recorded.

writing, the number of pages contained in the book; and attest the note with his signature. The collector is to cause to be entered in this register all grants not registered within the time prescribed in the publication directed by the fourth rule, which the Governor General in Council may order to be admitted upon the register under the fifth rule; all grants of exempted land that may be adjudged or become liable to the payment of revenue; all lands now paying revenue which may be adjudged not subject to the payment of revenue; all old grants of land, now subject to the payment of revenue, which the Governor General in Council may judge it proper, from particular circumstances, to renew; and all exempted lands which may be separated from or annexed to the jurisdiction of the zillah; with the authority for these several occurrences; and also the particulars for completing the requisite entries in the register of intermediate mutations in landed property paying revenue to Government, in the cases in which entries are directed to be made in that register.”

12. First. “When mehals are ordered to be separated from one zillah, and annexed to another, the collector of the zillah, from which the separation is to take place, is to transmit to the collector of the zillah, to which the annexation is to be made, a copy of the entries in the preceding periodical register, as far as they may regard the lands held exempt from the payment of revenue in such mehals; and also of any entries respecting them in the register of intermediate resurreptions which may have taken place subsequent to the forming of the last periodical register.”

Second. “Upon the arrival of the period when the separation is to be carried into effect, the collector of the zillah, from which the separation may be directed to be made, is to transmit to the judge of his zillah, and also to the provincial court of appeal, copies of the entries in the last periodical register, and register of intermediate resurreptions, which may relate to the grants to be separated from his zillah; and the collector, to whose zillah the annexation may be made, is to transmit copies of the abovementioned entries (with which he is directed to be furnished in the preceding clause), to the judge of the zillah,

and

Reg. 17. 1793.
 § 34. 35. 36.
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and to the provincial court of appeal. Immediately upon the receipt of these papers, the courts, from the jurisdiction of which the separations may be made, are to transmit the papers in the causes depending before them, which in consequence of the separation may become cognizable in any other provincial court of appeal, or zillah court, to such court; and to cause notification thereof to be communicated to the parties in writing." 13. "The collectors are to attest all entries in the register of intermediate resumptions with their official signatures; and they are strictly enjoined never to allow the register of intermediate resumptions to fall in arrear; but to make the necessary entries immediately upon any resumption or other occurrence taking place." 14. "A counterpart of the register of intermediate resumptions is to be kept by the keepers of the native records, in the same form as the English register; and in a book, the leaves of which are, in like manner, to be paged and attested by the judge of the zillah." 15. *First.* "When a periodical register shall have been transcribed fair into the book attested by the judge of the zillah, if it shall be discovered that the entries respecting any land are erroneous, or incomplete, or that there are any material inaccuracies of the transcriber, the entries are not to be altered or erased, but are to stand; and the collector is to cause the errors, or omissions, to be noted in the register of intermediate resumptions; and to attest the entry with his signature; and insert, in red ink, opposite to the erroneous or incomplete entry in the periodical register, the number of the page in the register of intermediate resumptions in which the errors or omissions may be noted; and at the end of the note, specify the number of the page of the periodical register, in which the property may be registered. Errors or omissions in the register of intermediate resumptions are to be noted in a similar manner." *Second.* "Erroneous or incomplete entries in the counterparts of the registers, to be kept by the keepers of the native records, are to be noted by them in the same manner as the collector is directed to note erroneous entries in the English registers. But the note of every such entry in the counterpart of the register of in-

And courts how to proceed with respect to the pending causes.

Reg. 19, 1793, § 36. Reg. 41, 1795, § 36. Reg. 31, 1803, § 31. Collectors enjoined never to allow the register of intermediate resumptions to fall in arrear.

Reg. 19, 1793, § 37. Reg. 41, 1795, § 37. Reg. 31, 1803, § 32. Counterpart of the English register of intermediate resumptions to be kept by the keepers of the native records.

Reg. 19, 1793, § 34, 39. Reg. 41, 1795, § 38, 39. Reg. 31, 1803, § 33, 34. How errors in the fair copy of the periodical register, and in the register of intermediate resumptions, are to be corrected.

Similar rule with regard to errors in the counterpart registers in the native language.

intermediate resumptions in the country languages shall, in addition to the attestation of the keepers of the native records, be signed by the collector." 16. "If the proprietary right in any grant of exempted land shall be under litigation in a court of justice, at the time of forming the first or any subsequent periodical register, the party in possession is to be registered as the proprietor." 17. "If a collector shall have occasion to require from the holders of a grant any information that may be necessary to enable him to form a periodical register, or to make the requisite entries in the register of intermediate resumptions, and such person shall omit to furnish it by the time required, after having been served by the collector with a written requisition for that purpose, under his official seal and signature, the collector is to report the circumstances to the Board of Revenue, (or Board of Commissioners,) who are empowered to impose on such person whatever daily fine may appear to them proper, on a consideration of his situation and circumstances in life, and of the case, until he shall furnish the information required; unless he shall prove, to the satisfaction of the Board, that it was not in his power to furnish it. The collector is to levy the amount of such fines by the process to which he is authorized to have recourse for the recovery of arrears of revenue. The Board of Revenue (and Board of Commissioners) are to furnish the collectors in the several zillahs with such records or information as they may possess regarding the exempted lands in their respective zillahs, as well to assist them in preparing the first periodical register, and in detecting frauds that may be attempted to be practiced upon them in registering the grants, as to aid them in ascertaining what lands, now held exempted from the payment of revenue, are liable to the payment of revenue under this regulation." 18. "The collector of the several zillahs are to transmit, as early as may be practicable, to the Board of Revenue (and Board of Commissioners) an attested copy of the periodical registers, both in the English and the Persian languages, each in a book of the prescribed size, pagged and attested by the judge of the zillah, in the same manner

Reg. 19, 1793,
§ 41. Reg. 41,
1795, § 40.
Reg. 31, 1803,
§ 35.
Persons in possession of disputed grants, to be registered as the proprietors.

Reg. 19, 1793,
§ 41. Reg. 41,
1795, § 41.
Reg. 31, 1803,
§ 36.
Holders of grants liable to be fined for omitting to furnish any information that may be required by the collectors for preparing the registers.

Board of Revenue to furnish the collectors with all papers and information they may possess relating to exempted lands in their respective zillahs.

Reg. 19, 1793,
§ 42. Reg. 41,
1795, § 41.
Reg. 8, 1800,
§ 15. Reg. 31,
1803, § 37.
To whom the Collect is to send copies of each periodical register, and of the quarterly entries in

the original register; and within one month after the expiration of the third, sixth, ninth, and twelfth months of the Bengal, Fussy, or Willaity year, an attested copy of the entries in the register of intermediate resumptions that may have taken place during the three preceding months. Whenever the zillah courts, or the provincial court of appeal, may have occasion to refer to any of the registers prescribed by the pre-ent regulation, they are authorized to require from the collectors the production of the original register, or an attested copy of such part thereof as may contain the required information. The collectors, on the receipt of such requisition, are immediately to transmit the original register, if it can be sent without inconvenience, under the care of one of their native officers, in whose custody it is to remain till returned: or if the original register cannot be conveniently sent, are to transmit, without delay, an accurate copy of such part thereof as may be required, under their official signature. In like manner the Board of Revenue (and Board of Commissioners) on the requisition of the Sudder Dewanny Adawlut, are to furnish any zillah register received by them which may be required by that court; or a copy, attested by the signature of their secretary, or accountant, of any part thereof which may be required. In the event of any register required by a court of justice not having been prepared, and the period fixed for its preparation having elapsed, the collector is to explain to the court the cause of such register not having been prepared; and the explanation so given is to be transmitted by the court receiving it to the Governor General in Council. Any person succeeding to the office of collector, or invested with the temporary charge of such office, is also required, immediately on his taking charge, to ascertain whether the prescribed registers have been duly prepared; and if not, to report the same to the Board of Revenue (or Board of Commissioners,) with any explanation he may have received of the omission, for the information of the Governor General in Council. 19. The Board of Revenue, Board of Commissioners, and collectors, are enjoined to be particularly attentive

the register of
intermediate
resumptions.

How the courts
are to proceed
whenever they
have occasion to
refer to any of
the registers.

Courts to re-
port to Govern-
ment the ex-
planations given
by collectors
for not having
the registers
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within the pre-
scribed periods.

Collectors of
adding collec-
tors, on taking
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certain whether
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the same to the
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venue or Board of
Commissioners,
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mation of Go-
vernment.

Reg. 19, 1793;
§ 43. Reg. 41,
1795; §. 48.

Reg. 31, 1803,
§ 38.

The Board of Revenue, Board of Commissioners, and collectors, to be careful to preserve the old periodical registers and registers of intermediate resumptions.

Reg. 19, 1793,
§ 44 Reg. 41,
1795, § 44.
Reg. 31, 1803,
§ 39.

From what materials the periodical register commencing with 1215, and subsequent registers are to be formed.

Reg. 58, 1795,
§ 3. Reg. 31,
1803, § 40.

Zillah courts to furnish the collectors of the districts in which the land may be situated, and the Board of Revenue, with a copy of every decree in suits between individuals which they may pass or have sent to them to be enforced, affecting the right in or possession of any lands held exempt from the payment of public revenue.

Copies of such decrees to be transmitted within twenty days after the same may be passed or received.

tive to the preservation of the periodical registers and registers of intermediate resumptions, both in the English and Persian languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated to prevent their being destroyed by insects, or otherwise." 20. "The periodical register, which is to be formed in each of the zillahs, at the commencement of every succeeding five years, is to be prepared from the preceding periodical register, and the entries in the subsequent register of intermediate resumptions, with the omission of any grants of land that may have been subjected to the payment of revenue during the preceding five years, or that may have been transferred to the jurisdiction of another zillah; and with the addition of any such grants of land that may have been annexed to the zillah; or that may have been adjudged not subject to the payment of revenue; or that may have been admitted upon the register by the Governor General in Council. The materials for each periodical register will thus be ready upon the arrival of the period for preparing it; and the register will be completed by the mere transcript of them into the book, arranged according to the prescribed form." 21. "The judges of the zillah courts shall furnish the collectors of the districts in which the land may be situated, and the Board of Revenue, (or Board of Commissioners,) with a copy of every decree in suits between individuals, which they may pass, or which may be sent to them by superior courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, under whatever description of grant the same may be so held, may be affected, in order that the collectors may be enabled to make the necessary entries of the alterations in such right or possession, to be inserted in the periodical registers of land held exempt from the payment of revenue. The copies of such decrees shall be transmitted by the judge within twenty days after the same may be passed or received by him." 22. "If it shall be proved, to the satisfaction of the judge of any zillah, that a native officer

of a collector, or of an assistant to a collector, shall have received, directly or indirectly, any sum of money, or effects, or other property, from any person, for registering a grant under this regulation, or on account of any matter relating to the registry thereof, the court shall adjudge him dismissed from his office, and compel him to repay the money proved to have been taken; with a fine of three times the amount to Government; and costs to the party suing him; and commit him to prison until he shall have discharged the amount of the decree; or it shall have been made good by the sale of his property." 23. "If any native servant or dependant of a collector, or of an assistant to a collector, not being a public officer, shall be convicted before the court of the offence specified in the preceding section, he shall be compelled to restore the money to the person from whom it may have been taken; and to pay a fine of three times the amount to Government; with costs to the party suing; and be confined for six months; and if he shall not discharge the amount of the decree by the expiration of the sixth month, he shall be confined until he makes good the amount, or it shall be realized from the sale of his property; and the collector, or assistant, is to discharge such servant, and never to employ him in his public or private capacity."

Reg. 19, 1793
§ 45, Reg. 41
1795, § 45
Reg. 31, 1803,
§ 41
Penalty for na-
tive officer re-
ceiving money
or property on
account of the
registry of
grants.

Reg. 19, 1793
Reg. 41, 1795
Reg. 31, 1803,
§ 41
Penalty for na-
tive officer re-
ceiving money
or property on
account of the
registry of
grants.

THE whole of the rules above stated, for the registry of lands held exempt for the payment of revenue under grants not *Badshahee* or *Royal*, are extended to lands held exempt under royal grants, by Regulations 37, 1793, 42, 1795, and 36, 1803, (for the lower provinces, Benares, and the upper provinces respectively; or by the additional provisions contained in Regulations 53, 1795, 8, 1800, and 7, 1803; with the following substitutions for the first, and fourth rules; and a few verbal differences, applicable to the different descriptions of land, as held, or not held, under the grants termed *Badshahee*. 1st. "That Government and its officers may have in their possession, at all future periods, a complete register of all the lands in the provinces held exempt

Above rules
for registry of
lands held ex-
empt from re-
venue under
Badshahee or
Royal grants.

The provisions
of the rules
substituted
for the first
and fourth.

Reg. 37, 1793,
§ 17, Reg. 42,
1795, § 17,
Reg. 36, 1803,
§ 17
Reg. 53, of

Badshahee grants to be prepared every five years.

Contents of the register.

Denomination of the register.

Reg. 17, 1793, § 20. Reg. 42, 1795, § 20. Reg. 36, 1803, § 20. Publication to be made requiring all persons to register their grants.

from the payment of revenue under Badshahee grants, a register of all such grants shall be formed every five years in each zillah. The register is to specify the denomination of each grant, whether altumgah, jaghire, or other tenure; the name of the original grantee, and of the person in possession; and if the person in possession be not the original grantee, his relationship to him, if any relationship should exist, and in virtue of what right he succeeded to the grant; the date of the grant; the name or names of the person or persons possessing the zemindarry or proprietary right in the lands; the name of the pergunnah, (or other local division where there may be no pergunnah), in which the land granted may be situated; with the exact number of villages, or other subdivisions, comprised therein, as particularized in the pergunnah register, directed to be kept by Regulations 8, 1800 and 42, 1803. The collectors are enjoined to take the utmost care, that the names of the pergunnahs (or other local divisions where there may be no pergunnahs) as well as the number of villages or other subdivisions stated to be in each, are exactly conformable to the pergunnah register; and are to furnish their native officers, appointed to prepare the counterpart registers, with particular instructions for this purpose. The register shall be denominated the *Periodical register of lands held exempt from the payment of revenue under Badshahee grants.*" 4th. "The collector of each zillah in which any jaghire, altumgah, ayma, or muddudmaash, or other lands, held under sunnuds or grants termed Badshahee, may be situated, is to cause the following publication, which shall be written in the Bengal and Persian languages, in Bengal and Orissa, and in the Persian and Hindoostanee languages in the other provinces, and attested with their official seals and signatures, to be fixed up in the principal cutcherry of the holders of grants of the description of those specified in this regulation; and take a receipt from the holder of such grant, or the person entrusted with the management of it, specifying the date on which the publication may be fixed up, and that he will be responsible for the paper remaining so affixed for one year from the date of it."

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The collectors are further required to cause the prescribed publication to be fixed up in their own cutcherries, and in the cutcherries of the civil courts within their respective zillahs, for general information."

" In conformity to regulation —, every person being actually in possession of altungah, jaghire, ayma, muddudmaash, and other land, now exempt from the payment of revenue, and held under Badshahee grants, in the zillah of —, whether made or confirmed by the Government of the country for the time being, or by whatever authority, are required to register the following particulars respecting such grants in the office of the collector of the zillah, before the expiration of one year from the date of this publication. If any holders of such grants shall not register their grants, either in person, or by a vakeel with a vakalutnamah, attested by two credible witnesses, and given for the express purpose of registering the grants, the grants will be considered liable to resumption; and the lands chargeable with revenue, in the same manner as other lands subject to the payment of revenue. Persons having claims only to hold land exempt from the payment of revenue under such grants, but who do not now hold the lands exempted, are not to register the lands so claimed by them.

Publication,

" Denomination of the grant, whether altungah, jaghire, or other tenure.

By whom granted.

Name of the original grantee.

Name of the present possessor; and, if he be not the original grantee, his relationship to him; and whether he succeeded to the land hereditarily, or by purchase, or what other mode.

Date of the grant.

The name or names of the meahals or villages, or lands comprised in the grant, or in which the land may be situated.

The names of the zemindar or other proprietor of the meahals or villages, or lands included in the grant, whether such zemindarry or proprietary right shall be vested in the grantee,

or

or any other person.

The measurement of each mehaul or village, or the land included in the grant.

The pergunnah or pergunnahs in which the lands may be situated.

A copy of the original grant, and other writings under which the land may be held."

THE forms prescribed for the periodical registers of estates paying revenue to Government, and lands held exempt from the payment of revenue, involving a necessary arrangement of them according to the estates and tenures included in them, they could not exhibit, in a connected view, the state of the pergunnahs, or other local divisions of the country; several of which, in some instances, form parts of one estate; whilst in others a pergunnah comprises many distinct estates. To remedy this inconvenience, as well as to facilitate the punctual preparation of the periodical register above mentioned, (by saving the necessity of some of the details required by the original rules for those registers,) and to provide for a general register of the lands, whether malguzary or lakheraj, according to their situation within the pergunnah, or other established local division to which they are respectively annexed, the following rules were enacted for Bengal, Behar, Orissa, and Benares, by Regulation 8, 1800, and re-enacted for the ceded provinces, by Regulation 42, 1803; extended to the conquered provinces by Section 27, Regulation 8, 1805. 1. "The collectors of the land revenue shall proceed to form a register of all the lands in their respective zillahs, of whatever description, to be denominated "*Pergunnah register of lands, malguzary and lakheraje*;" and to be prepared as hereafter directed. 2. *First*. "The register shall contain a distinct head for each pergunnah; or where no pergunnah division may have been established, for such local division as may have been established instead of a pergunnah; whether a tuppah, turruf, or of whatever other known denomination; but wherever the pergunnah division may exist, the lands

within.

Reasons for a pergunnah register of malguzary and lakheraj lands, according to their local situation, in addition to the registers before described.

Rules enacted for this purpose in Regulations 8, 1800, and 42, 1803.

Reg. 8, 1800, § 2 Reg. 42, 1803 § 31. Collectors shall form pergunnah registers of all lands in their respective districts.

Reg. 8, 1800, § 3 Reg. 42, 1803, § 32. The register shall contain a distinct head for each pergunnah, or such other local division of lands as may have been established.

within such division shall be registered under the head of the pergunnah." *Second.* "The register of each pergunnah, (or other local division where there may be no pergunnah) shall be divided into two parts; the one for malgoozary lands, or lands assessed for the public revenue; the other for lakheraje lands, or lands exempted from the public assessment." *Third.* "The malgoozary part of the register shall comprise the following particulars of all lands within the pergunnah paying revenue to government; to be specified distinctly for each estate situated therein.

The register of each division shall be divided into two parts, for malgoozary and lakheraje lands.

What particulars the malgoozary part of the register shall contain.

1. Name of the estate to which the lands appertain, as entered in the register of estates paying revenue to Government, with a reference to the number under which the estate may have been entered in such register.
2. Name of the proprietor or proprietors of the estate, as also entered in the register of estates paying revenue.
3. A detailed statement of the several villages, portions of villages, or other subdivisions of each estate, within the pergunnah; with an accurate enumeration of them, for the purpose of being referred to in the register of estates paying revenue.
4. The ruckbah, or measurement, of each village or other subdivision, whenever the same may be ascertainable by public measurements to settle disputes, or otherwise.
5. The gross rents of any village, or other subdivision, which may have been ascertained by a khas collection, attachment, or otherwise."

Fourth. "The lakheraje part of the pergunnah register shall comprise the following particulars of all lands within the pergunnah not paying revenue to Government, to be specified distinctly for each lakheraje tenure situated therein.

What particulars the lakheraje part of the register shall contain.

1. Denomination of the tenure, as entered in the register of lands held exempt from the payment of revenue to Government, with a reference to the number under which the tenure may have been entered in such register.

2. Name of the holder or holders of the tenure, as also entered in the register of exempted lands.
3. A detailed statement of the several villages, portions of villages, or other subdivisions of each tenure within the pergunnah, with an accurate enumeration of them, for the purpose of being referred to in the register of exempted lands.
4. The ruckbah, or measurement of each village, or other subdivision, wherever the same may have been reported by the holders of lakheraje tenures, or may be otherwise ascertainable.
5. The gross rents of any village or other subdivision, the gross produce of which may have been ascertained."

Reg. 8, 1800,
§ 4. Reg. 42,
1803, § 33.
At the periods
the general per-
gunnah registers
are to be pre-
pared, and now
to be number-
ed.

3. THE first general pergunnah register, in the lower provinces and Benares, was ordered to be prepared for the Bengal, Fussily and Willaity year 1207; in the upper provinces, for the Fussily year 1215; and to "exhibit the required particulars respecting the malgoozary and lakheraje lands in the several pergunnahs, as they stood at the commencement of those years respectively;" so as to correspond with the periodical registers of estates paying revenue to Government, and of lands held exempt from the payment of revenue, which are ordered to commence with the years specified. This original pergunnah register to be numbered *one*. A similar general pergunnah register was directed to be prepared at the commencement of the Bengal, Fussily, and Willaity year 1212, in the lower Provinces and Benares; and at the commencement of the Fussily year 1220, in the upper provinces, to be numbered *two*; "and thereafter, at the commencement of every fifth succeeding year, to be numbered in the order in which it may be formed." 4. "For the purpose of recording any alterations in the particulars required to be entered in the periodical pergunnah registers, which may take place during the interval of five years, the period prescribed for the formation of them, an intermediate pergunnah register shall be kept, under the same heads as directed for the general registers, in which all pergunnah annexations or separations, all divisions or transfers of estates, all

Reg. 8, 1800,
§ 5. Reg. 42,
1803, § 34.
In intermediate
pergunnah re-
gisters to be
kept, for re-
cording all al-
terations be-
tween the peri-
ods prescribed
for forming the
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new information obtained respecting the measurement or rents of land, all resumptions of lakheraje exemptions, and generally all alterations in any of the particulars required to be entered in the pergunnah register of lands, malgoozary and lakheraje, shall be duly recorded, as soon as possible after such alterations may have taken place; with a note of reference to such parts of the last formed quinquennial register as may be affected thereby. Provided, however, with respect to all transfers or divisions of estates in which an allotment of the public assessment may be necessary, under the rules prescribed in Section 10, Regulation 1, 1793, Section 37, Regulation 25, 1803,* or any other regulation, that no such transfer or division shall be registered until the assessment has been allotted, as required by the regulations; nor shall any entry in the pergunnah register be considered to affect the rights of Government, either with regard to lands assessed with public revenue, or the lands held exempt from such assessment."

5. "The Board of Revenue were instructed to furnish the collectors of the several zillahs with a form for the pergunnah register, directed by the second rule; to "be kept in the Persian language only, by the keepers of the native records, appointed under Regulations 21, 1793, and 23, 1803; with the assistance of such other native officers as may be appointed for this purpose. The collectors shall attest every page of the register prepared by them, after ascertaining that it is accurate, and are to cause the periodical register to be bound up, as soon as completed, in a volume or volumes of uniform dimensions, each leaf of which, having been previously paged, shall be signed by the zillah judge, with a specification, on the last leaf of each volume, of the total number of pages contained in it, in the hand-writing of the judge; as prescribed by the existing regulations, with respect to other registers thereby required. The intermediate register shall also be bound up, paged, and attested at the end of every Bengal, Fussily and Willaity year, in the same manner as directed with regard to the quinquennial register; and the collectors are enjoined to be careful, that the intermediate register be at no time

allowed

Provision respecting cases wherein an allotment of the public assessment may be necessary.

No entry in the register shall affect the rights of Government.

Reg. 8, 1800, § 6 Reg. 43, 1830, § 35. The Board of Revenue are to furnish the collectors with forms of the registers. In what language and by whom the registers are to be kept, and how to be attested.

eg. 8, 1800,
7. Reg. 40,
103, § 36.
from what ma-
terials the
material registers
are to be
prepared, and
how the mate-
rials, not alrea-
dy received, are
to be procured.

allowed to fall in arrear." 6. "The first pergunnah register shall be prepared from the papers furnished by the proprietors and farmers of lands paying revenue, or by the holders of land exempt from the payment of revenue, for the registers of these lands respectively; as well as from any other materials which may be procured for the quinquennial registers of estates paying revenue, and the periodical registers of exempted lands, directed to be prepared at the same period. Whatever further papers or information may be requisite for the exact ascertainment of portions of estates situated within different pergunnahs, or the precise number and names of villages appertaining to the several estates in each pergunnah, or for the purpose of ascertaining any of the particulars to be specified under the three first heads of the malgoozary part of the pergunnah register, or the four first heads of the lakheraj part of the register, as above stated, the collectors are authorized to require the same from the proprietors, farmers, and under-tenants of malgoozary lands, or from the holders of lakheraj lands, in the same manner as they are authorized by the regulations to require from such persons any information which may be necessary to enable them to form the other registers therein prescribed; and under the same penalties for non-compliance. But the collectors shall not require from the proprietors or farmers of malgoozary lands, or from their under-tenants, any papers or information respecting the measurement or rents of such lands; nor from the holders of lakheraje lands any papers or information respecting the rents of lands of this description, for the purpose of entering the same in the pergunnah register; it being intended only, that the measurement and rents of malgoozary lands, and the rents of lakheraje lands, should be entered in the register, when the same may be ascertained by public measurements, khas collections, attachments, or such other occasional means, as may furnish the necessary information for completing these subsidiary heads of the pergunnah register, which are to be left blank until such information may be obtained." 7. "The information required to be furnished for

The collectors are not to require information respecting the rents or measurement of malgoozary, or the rents of lakheraje lands.

How such information is to be procured.

the register of intermediate mutations in landed property, and the register of intermediate resummptions, or other occurrences respecting grants of exempted lands, will furnish the collectors with the principal materials for the intermediate pergunnah register prescribed by the fourth rule. Whatever further information may be requisite, the collectors are authorized to require the same, under the provisions and restrictions specified in the preceding rule." 8. The first general register, and subsequent intermediate register, if duly kept up, must furnish the collectors with full materials for the quinquennial pergunnah register to be prepared in the lower provinces and Benares, for the Bengal, Fussily, and Willaity year 1212; and in the upper provinces for the Fussily year 1220. "They will also be careful to avail themselves of any occasional means of authentic information from public measurements, attachments or otherwise; and it is expected that, in the course of time, their pergunnah registers will contain an accurate statement of the lands and rents throughout their respective districts. To promote the former object, they are further directed to note the boundaries of villages, or other subdivisions, whenever the same may be ascertained; and also, as far as practicable, the limits of the pergunnahs (or other local divisions where there may be no pergunnahs) within their respective zillahs. No change in the existing limits of pergunnahs, or in the mehals composing them, shall be made by the collectors, without the sanction of the Governor General in Council; but if any collector should judge it expedient to alter the existing boundaries of a pergunnah, for the purpose of rendering it more compact, or otherwise; or to separate any village, talook, or other mehal, from the pergunnah to which it may be now attached, and annex it to any other pergunnah; he shall state his reasons at large for such alterations to the Board of Revenue, (or Board of Commissioners,) who will submit the same to the Governor General in Council, with their opinion upon the expediency of the alterations proposed, for his determination. Provided, that whenever any such pergunnah separation, or annexation, may take place, it shall in no respect

§ 8 Reg. 42;
1801, § 37
From what materials the intermediate registers are to be formed, and how any further information is to be procured.

Reg. 8, 1800,
§ 9. Reg. 48
1819, § 38.
What measures the collectors are to take, to render their general registers complete.

No change in existing limits of pergunnahs &c. to be made without the previous sanction of Government.

The above rule not to preclude the collectors from re-annexing mehals separated since 1809.

Reg. 8, 1800, § 10 Reg. 41, 1803, § 39 Copies of entries in the registers to be sent by one collector to the other, in the case of lands being separated from one zillah, and annexed to another.

Reg. 8, 1800, § 10 Reg. 41, 1803, § 40 Notice to be given to the collectors of the establishment of new villages, and of certain particulars

affect the rights of the proprietor or occupant, of any village, talook, or other mehal, included therein; and provided further, that the above restriction against the alteration of existing pergunnahs, without the sanction of the Governor General in Council, shall not be considered to preclude the collector from re-annexing to their proper pergunnah any mehals which may have been separated therefrom by the landholders since the commencement of the Bengal, Fussily, or Wilaity year 1197, in the provinces of Bengal, Behar, Orissa, and Benares, respectively; or since the commencement of the Fussily year 1209, in the upper provinces; and formed into separate turruffs, or otherwise." 9. "Whenever any lands may be ordered to be separated from one zillah and annexed to another, the collector of the zillah, from which the separation may be made, shall transmit to the collector of the zillah, to which the annexation is to be made, an attested copy of all entries, relative to the lands transferred, in the last formed quinquennial pergunnah register; as well as any entries relative thereto in the subsequent intermediate register; together with any other information which have been obtained respecting such lands. These documents will enable the collector of the zillah, to which the lands may be annexed, to make the necessary entry of them in his intermediate pergunnah register; as well as in the next general register which may be prepared by him." 10. "Whenever any new village may be established upon lands paying revenue to Government, the name of which shall not have been included in the list of villages delivered to the collectors, for the purpose of preparing the prescribed registers of these lands, the proprietor of the estate in which such new village may be situated, or the farmer of the estate be let in farm by Government, or the serberakar or khas-officer who may have the management of the estate, if it be a serberakarry or khas mehal, shall give notice to the collector, immediately on the establishment of such new village, that the same may be entered in the public registers. In default thereof, or in the event of its appearing that

that any village, or other portion of an estate, subject to the payment of revenue, has been wilfully omitted in the village statements, which the collectors are authorized to require for the purpose of preparing the public registers, the village, or other portion of an estate, so wilfully omitted, shall be liable to forfeiture to Government, if the statement, which ought to have contained it, shall have been furnished by the proprietor; or if furnished by a farmer, serberakar, sezawul, or other officer, the person, who may have furnished the same, shall be liable to a fine to Government, in such amount as the Governor General in Council, on consideration of the circumstances of the case, may think proper to impose. The collectors shall report all cases of this nature to the Board of Revenue, (or Board of Commissioners,) who shall submit the same, with their sentiments, for the determination of the Governor General in Council." 11. "That the collectors may be regularly informed of all future changes in the property of malguzary estates, or lakheraje tenures, within their respective zillahs, for the purpose of entering the same in the prescribed register, all persons succeeding to the property of any malguzary estate, or lakheraje tenure, whether by inheritance, purchase, gift, or otherwise, are required to notify such succession, immediately after the same may have taken place, to the collector of the zillah in which the estate or tenure succeeded to may be situated; and to furnish such information as may be necessary to enable the collector to make the prescribed entries in the public registers. The collector, on receiving the notification, shall make such enquiry as may appear necessary to ascertain the truth of the alleged succession to, or transfer of, the property; and if the same shall appear to have taken place, shall make the requisite entries in the intermediate pergunnah register; in the intermediate register of mutations in lands paying revenue; and the intermediate register of occurrences respecting land held exempt from the payment of revenue; provided, with regard to all such entries, that they shall not in any degree affect the rights of any party whose name

Reg. 8, 1800,
§ 21, Reg. 48,
1803, § 41
Notice to be
given to the col-
lector by all
persons suc-
ceeding to land-
ed property, by
inheritance or
otherwise.

Collector to en-
quire into the
truth of such
allegation.

may

Penalty for neglect of giving such notice, or wilful misrepresentation in giving it.

Reg. 8, 1800, § 17, R. R. G. 40, 1803, § 40, 43
Collectors to provide offices to assist in the preparation of the registers directed to be kept by this regulation, and by Regulation 31, and 35, 1803, with a statement of the allowances deemed necessary for them.

Also to report what parts of their present establishments may be appropriated to the payment of such allowances; and what additional native writers will be necessary for the English registers.

may be registered therein as the ostensible proprietor of the land, or whose name may not have been registered as the proprietor, but who may establish a right of property in the court of adawlat, or otherwise. Any person succeeding to the property of a malguzarry estate, or lakheraje tenure, who may not give the notification above required to the collector, or any person who may wilfully misrepresent to the collector his having succeeded to the property of an estate, or tenure, to which, on enquiry, it may appear he has not succeeded, shall, for such omission or misrepresentation, be liable to a fine to Government, to be fixed by the Governor General in Council, on a report from the collector, through the Board of Revenue, (or Board of Commissioners) of the nature and circumstances of the case. When the person succeeding to the estate, or tenure, may be a minor, or otherwise disqualified from giving the notice required, his guardian, or whoever may act for him in the management of the estate, or tenure, succeeded to, shall give the information required, under the prescribed penalty." 12. *First.* "A sufficient number of native officers shall be appointed to assist the native record keepers in keeping the prescribed pergunnah register; as well as the Persian counterparts of the registers of estates paying revenue to Government, and of lands exempted from the payment of revenue. The collectors shall furnish the Board of Revenue with a statement of the additional establishments of native officers which they may consider indispensably necessary to enable them to perform the duties above mentioned; and of the allowances proposed to be granted to such officers respectively. The collectors shall, at the same time, report to the Board of Revenue, what parts of their present establishment can be appropriated to the payment of such allowances; and whether they would recommend any of the native officers, now acting under them, to be employed as proposed. The collectors will also report, whether any and what number of native writers will be required to prepare the English registers of estates paying revenue, and lands exempted from the payment of revenue, in addition to their assistants, who are to be employed

employed upon this duty as far as their other business will permit; and it is expected that the collectors themselves will give constant attention to the English registers, for all entries in which they are declared responsible; particularly to the register of intermediate mutations, resumptions, and other occurrences, in which the utmost accuracy is essentially necessary; and the transactions entered in which being occasional only, the entries can be easily made by the collectors themselves in the original registers." *Second.* "On receipt of the reports required from the collectors by the preceding clause, the Board of Revenue shall submit to the Governor General in Council the necessary establishments of native officers for keeping up the several registers prescribed; and if any additions to the present establishments should appear to them indispensably necessary for the purpose, they will state the same to the Governor General in Council, for his determination. The officers so appointed, or who may be hereafter appointed for the purposes specified in the preceding clause, shall not be removeable, without proof of misconduct to the satisfaction of the Governor General in Council.* They shall be exclusively employed in preparing and copying the prescribed registers, whilst any part of these shall be in arrear; and after completing the registers directed to be prepared from the commencement of the Bengal, Fussily, and Willaity year 1207, in the lower provinces and Benares, and from the commencement of the Fussily year 1215, in the upper provinces, shall, with the least possible delay, complete the registers in arrear for former years; but the preparation of the current registers shall not be delayed for those of former years."³

Board of Revenue to submit the necessary establishments to Government

Rules respecting the removal of officers appointed for this duty, and how they are to be employed.

* Under the provisions of Regulations 5, 1804, and 8, 1809, which have been stated at length under the head of *Native Officers in the Revenue Department*, the officers referred to are removable by the Board of Revenue, and Board of Commissioners.

SUPPLEMENTARY NOTE, SEPTEMBER 15, 1815.

TEN forms, for the different registers specified under the foregoing head, were submitted to Government by the Board of Revenue on the 8th May 1800; and after being approved by the Governor General in Council, were circulated for the observance of the collectors; viz.

1. Form for quinquennial register of estates paying revenue to Government. English and Persian.
2. Ditto for register of intermediate mutations in estates paying revenue. English and Persian.
3. Ditto for periodical register of lands held exempt from the payment of revenue, under *Padshāhī*, or royal grants. English and Persian.
4. Ditto for register of intermediate resumptions or other occurrences respecting exempted lands held under *Padshāhī* grants. English and Persian.
5. Ditto for periodical register of lands held exempt from the payment of revenue under grants not *Padshāhī*, or royal. English and Persian.
6. Ditto for register of intermediate resumptions or other occurrences respecting exempted land held under grants not *Padshāhī*. English and Persian.
7. Ditto for the malgoozary part of the general pergunnah register; to be prepared in Persian only.
8. Ditto for malgoozary part of supplementary pergunnah register; in Persian only.
9. Ditto for the lakheraj part of the general pergunnah register; in Persian only.
10. Ditto for the lakheraj part of the supplementary pergunnah register; in Persian only.

Of these registers the first six are transmittable by the collectors to the accountants of the Board of Revenue and Board of Commissioners; and if regularly furnished, the following ought to be now forthcoming. *Quinquennial registers of estates paying revenue to Government.*

Government, for the Bengal, Fussily, and Willaity years 1197, 1202, 1207, 1212, and 1217, in the lower provinces and Benares; and for the Fussily years 1210, 1215, and 1220 in the upper provinces. *Periodical registers of lands held exempt from the payment of revenue*, No. 1, 2, 3, 4, in the lower provinces and Benares; and No. 1, 2, 3, in the upper provinces. *General pergunnah register of malgoozary and lakheraj lands*, No. 1, 2, 3, for the Bengal, Fussily, and Willaity years 1207, 1212, and 1217, in the lower provinces and Benares; and No. 1, 2, for the Fussily years 1215 and 1220, in the upper provinces. On inquiry, however, I find that a few only of the copies of the registers, which should have been sent to the presidency, have been received; and that from some impediments attending the formation of the original registers, or the want of a sufficient establishment of native officers to prepare them, the rules for them are not generally observed. I cannot but regret this, from whatever cause it may have proceeded, as frustrating the expectation of a most useful public record; the defect of which may be of serious consequence to individuals, as well as to Government. From the pergunnah register in particular, which was proposed by myself, when a member of the Board of Revenue, with the provisions of Regulation 8, 1800, I anticipated the gradual formation of a record, which might in some degree supply that formerly kept in the canoongo office; and constantly referred to for the determination of private rights, as well as for accurate information upon many points connected with the public revenue. The following is an extract from the letter addressed by the Board of Revenue to the Governor General in Council, under date the 3th May 1800.

“Adverting to the very slow progress made by the collectors in the formation of the first and second quinquennial registers of estates paying revenue to Government, and the periodical registers of lands held exempt from the payment of revenue, under *Padshdee*, or other grants, we have been led to consider by what means these important records, with the intermediate registers of each description prescribed by the regulations, might be punctually

tually kept up in future. In this consideration it has appeared to us that a principal cause of delay in preparing the whole of the registers, and furnishing the copies of them required by the regulations, must have been the detailed specification of villages, which in most of the zillahs are extremely numerous; and have consequently extended the registers containing them to a voluminous and inconvenient size. At the same time we are aware that a specification of the villages, composing the several malgoozary estates and lakheraj tenures, in the public registers, is desirable and necessary to guard against fraud and impositions, whereby Government might otherwise be subjected to a permanent loss of revenue. To obtain both objects therefore, viz. a full and exact register of all the villages, or other sub-divisions of estates, paying revenue, and tenures held exempt from the payment of revenue, for occasional reference; and a less detailed register for periodical transmission to the presidency; it has occurred to us that it would be expedient to form a distinct pergunnah register, to be kept in the Persian language only, in which the detail of villages, with their measurements and rents when ascertained, might be entered; and to state the number of villages only, with references to the pergunnah registers, in the general registers of estates and exempted lands, which the collectors are directed to keep in English, as well as in the country languages, by Regulations 19, 37, and 48, 1793; 19, 41, and 42, 1795. A further reason for a distinct pergunnah register, including all lands within the limits of each pergunnah (or other local division where there may be no established pergunnah) has been suggested to us by an inconvenience unavoidably attending the registers prescribed by the above regulations; which, being arranged according to the estates and tenures included in them, cannot shew in a connected view the state of the pergunnahs or other local divisions of the country; several of which in some instances are included in one estate; whilst in others a pergunnah comprises many distinct estates; or several estates, and portions of other estates, situated partly in different pergunnahs. To remedy these inconveniences, as well as other-

wise to amend, and facilitate the punctual preparation of the registers prescribed by the regulations above mentioned, and to provide for a general register of the lands, whether malgoozary or lakheraj, according to their situation within the pergunnah, or other established local division, to which they are respectively annexed, we have the honor to submit to your Lordship in Council the draught of a regulation in the prescribed form; in which we have further explained the grounds of the several provisions therein proposed." The regulation here referred to was enacted by Government on the 3d July 1800, as Regulation 8, of that year; and the rules contained in it, for a pergunnah register, were re-enacted for the upper provinces, as already noticed, by Regulation 42, 1803. As these regulations are still in force, I am not without hope that the observance of them may yet be required. The subject is under the consideration of the Board of Revenue; and I feel assured that, with attention on the part of the revenue officers, no ultimate obstacle will be found to prevent the easy and punctual execution of so plain and simple a duty; which can only be rendered difficult by an accumulation of arrears; and by inattention to the transactions which call for registry, at the time of their occurrence.

THIRD PART.

SECTION IV.

COINAGE.

Reasons for introducing the subject of coinage in this place.

IT was my intention to have postponed the subject of this section to the last, or miscellaneous, part of my analysis. But as the mint duties form an article of the gross revenue (though the aggregate expenses of the mints somewhat exceed the receipts) and as the rules concerning the coinage are intimately connected with the payment of the land revenue, I have been induced to state them in this place.

I. *BENGAL, BEHAR, AND ORISSA.*

Principles on which the silver and gold coinage of Bengal, Behar, and Orissa, have been regulated, as stated in Preamble to Regulation 35, 1793.

THE principles upon which the silver and the gold coinage have been regulated in these provinces are stated at length in the preamble to Regulation 35, 1793, in the following terms: "Under the native Government it was customary to insert upon the rupees the year in which they were struck; and the rupees coined at Patna, Dacca and Moorshedabad, (at each of which cities there was an established mint) bore different inscriptions; which in fact rendered the rupees issued in each year, from the respective mints, a distinct species of coin. Upon the mints at Patna, Dacca, and Moorshedabad, being withdrawn, soon after the commencement of the Company's administration,* the proprietors and

* See resolutions of Government, 27th May 1777, in COLLEBROOK'S digest. Vol. 3. Page 367.

farmers of land in the interior parts of the country, who were bound by their engagements to pay the public revenue in sicca rupees, experienced considerable difficulty in obtaining those rupees, from the coinage of them being confined to Calcutta; at which place the only mint that remained in the provinces was established. They were in consequence compelled to collect the rents from the ryots in the species of sonat, or other old rupees, of which there happened to be the greatest number in their respective districts; and which they were permitted to pay into the public treasuries at the fixed exchange. In consequence of the ryots being required to pay their rent in a particular sort of rupee, they of course demanded it from the manufacturers in payment for their grain, or raw materials; whilst the manufacturers, actuated by similar principles with the ryots, required the same species of rupee from the traders who came to purchase their cloth, or other commodities. The various sorts of old rupees accordingly soon became the established currency of particular districts; and as a necessary consequence, the value of each rupee was enhanced in the district in which it was current, from being in demand for all transactions. As a further consequence, every other sort of rupee brought into the district was rejected, from being a different measure of value from that by which the inhabitants had become accustomed to estimate their property; or if it was received, a discount was exacted upon it, equal to what the receiver would have been obliged to pay upon exchanging it at the house of a shroff for the rupee current in the district; or to allow upon passing it in payment to any other individual. Thus, if a sicca rupee of the nineteenth *sun*,* which is intrinsically worth about seven per cent more than an arcot, was offered in payment in the Dacca province, it was either refused, or received nearly at the same value as an arcot; whilst the holder of arcots, or other sorts of rupees, who carried them into districts in which they were not current, was subject to similar loss. The proprietors and farmers of land, or the persons concerned in making their pay-

* Literally, *year*; but here meaning the year of the King's reign.

ments to the public treasuries, derived a considerable advantage from this enhanced valuation of the particular species of rupees current in their respective districts; as they were enabled to obtain credit for them in exchange for siccas, in which their revenues were payable, at a rate considerably exceeding their intrinsic worth. The profits which the shroffs or money changers derive from this disordered state of the coin is necessarily enormous. Their agents in the different parts of the country buy up all rupees which are brought into districts in which they are not current, and consequently at a depreciated value; and send them for sale to districts where they are the prevailing currency; and in which they dispose of them at an enhanced value to persons who have payments or purchases to make in those districts. The merchants and traders are under the necessity of submitting to the imposition, for no other rupee but the nineteenth sun sicca being coined at the mints, the old rupees are procurable only from the shroff; and consequently they must either pay the exchange demanded, or discontinue their purchases. From this rejection of the coin current in one district, when tendered in payment in another, the merchants and traders, and the proprietors and cultivators of land in the different parts of the country, are subjected in their commercial dealings with each other to the same losses by exchange, and all the other inconveniences that would necessarily result were the several districts under separate and independent Governments, each having a different coin. The money changers are the only description of people who derive any benefit from this disordered state of the coin. The loss falls upon Government, and the public at large; and must be perpetual, unless the various old and counterfeit rupees now current in the different parts of the country, can be thrown out of circulation; and one species of rupee made the general standard measure of value in all transactions between individuals, and between Government and its subjects. The sicca rupee of the nineteenth sun is the established silver coin of the country; and the rupee in which the public revenues are payable, It was with a view to render it

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the general measure of value, that Government determined in the year 1773,* that all rupees coined in future should bear the impression of the nineteenth sun, or year of the reign of SHAH AALUM; and no other species of rupee (with the exception of some arcots) has since been coined in the Calcutta mint. The rupees of the eleventh, twelfth, and fifteenth sun, were indeed directed to be considered current equally with the nineteenth sun sicca rupee. But this was a temporary measure, intended to be continued in force only until there should be a sufficiency of the nineteenth sun sicca rupee introduced into circulation. The number however of these three descriptions of rupees is of course inconsiderable, compared with the number of the nineteenth sun sicca rupees that have been coined since the abovementioned year; and they are so much worn as to be no longer fit for circulation. The preceding remarks evince, that it is the interest of individuals of every description, excepting the money changers, to co-operate with Government to render the nineteenth sun sicca rupee generally current; and the standard of value throughout the country. Amongst the measures considered necessary to effect this important object, the following were the principal.

* There must be a mistake in this notice of the year in which the determination referred to was passed; as the reign of SHAH AALUM commenced in the year 1760. In the resolutions of 27th May 1777, it is declared "that all sicca rupees of the future coinage shall pass for ever, without any deduction of batta by weight and not by tale; in all receipts of the revenue, and in all receipts and issues of the Company's treasury." The following proclamation (printed in vol. 3. of COLLEBROOK'S Digest, page 367,) appears also to have been published by Government on the 26th August 1771. "This is to give notice to all merchants and others residing under the Honorable Company's protection at this settlement, that they have ordered sicca rupees of the twelfth year of his present Majesty SHAH AALUM's reign to be struck in the Honorable Company's mint, and pass current at sixteen per cent batta, on the twelfth day of September next ensuing; and they likewise give public notice, that this coinage of the twelfth sun siccās shall not cause the eleventh sun siccās to fall in their value; but that the eleventh sun siccās shall pass on the same footing as they have heretofore done, that is to say, at the batta of sixteen per cent; and whenever new siccās of any future year shall be issued, the siccās of the former years, as far back as the eleventh sun, shall not fall in their value, or be reduced to the state of sonauts; but they shall be considered and pass in payment at the same value as the siccās of the current year. The tenth sun siccās are from the 12th day of September next to be considered and to pass as sonaut rupees, and all other sorts of rupees are to pass and be received as heretofore."

First. To direct the officers employed in the provision of the investment, the manufacture of salt, and all commercial transactions of the Company, to make their agreements with individuals for sicca rupees of the nineteenth sun; for if Government, in their extensive commercial dealings, and in the provision of the salt, make contracts with their subjects in other species of rupees, they must necessarily continue the measure of value where those concerns are transacted; and it would be as ineffectual to declare the nineteenth sun sicca rupees the only legal currency, as it would be unjust to attempt to enforce the rule. *Secondly.* To oblige individuals to estimate their property by the nineteenth sun sicca rupee, by declaring the amount of bonds and engagements entered into after a certain period, (in fixing which a time was allowed that was presumed sufficient for the introduction of the necessary number of the nineteenth sun sicca rupees into circulation,) whereby any sum of money might be stipulated to be paid in any species of rupees excepting the nineteenth sun siccas, not recoverable in any court of judicature. *Thirdly.* To prohibit the receipt of any rupees, excepting siccas of the nineteenth sun, at the public treasuries, after the date above alluded to. This last measure was calculated to oblige the proprietors and farmers of land to require nineteenth sun sicca rupees from their under-renters and ryots; and consequently induce the latter to demand them from the manufacturers; who for similar reasons would necessarily require them from the merchants and traders; and thus make it the interest of all descriptions of persons to receive the nineteenth sun sicca rupee, and to reject every other species of rupee, upon the principles on which they before demanded the particular rupee current in the respective districts. *Fourthly.* To establish mints at the cities of Patná, Dacca, and Moorshedabad, to coin precisely the same rupee as that struck at Calcutta. Without the adoption of this last arrangement, it would have been useless to declare the nineteenth sun sicca rupee the only legal tender of payment. For unless individuals had been afforded a ready means of procuring their old coin to be converted, without loss,
into

into the new, they would have been obliged to have purchased the new money from the shroffs; who would have demanded an exorbitant exchange upon it, as well with a view to reap the immediate advantage, as to prevent the establishment of the general currency of the nineteenth sun sicca rupee. Keeping open mints in the interior parts of the country, until the circulation may be filled up with that coin, precludes the necessity of any person applying to shroffs for it; and consequently deprives them of their influence, which is founded on the wants and necessities of individuals, by furnishing all persons with the new money at the cheapest rate, and with the least trouble. By the operation of these rules, the various sorts of old and light rupees must, in a course of time, fall to their intrinsic worth compared with the sicca of the nineteenth sun; as they will produce no more in the mint; to which they will, necessarily be brought to be converted into siccas, as they will be no where passable or in demand as coin, from being no where a measure of value. The rules by which the gold coin has been regulated have been productive of evils similar to those which have prevailed with regard to the silver coin. Under the native administrations, and until the year 1766, the gold mohur was not considered as a legal tender of payment in any public or private transaction; nor was the number of rupees, for which it was to pass current, ever fixed by the Government. It was struck for the convenience of individuals; and the value of it in the markets fluctuated like other commodities; silver being the metal which was the general measure of value throughout the country. In the year 1766 the value of the gold coin, with respect to the silver, was first fixed; and the former coin declared a legal tender of payment.* A gold mohur was struck, and ordered to pass for fourteen sicca rupees. But as this coin, (calculating according to the relative value of the two metals,) was much below the worth of the silver in the number of rupees for which it was ordered to pass, it was found impossible to render it current; and it was accordingly called in, and a new gold mo-

* See regulations of 2d June 1766, in vol. 3, of COLEBROOKE'S Digest: p. 365.
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hur, being that now current, was issued in 1769; which was directed to pass as a legal tender of payment for sixteen sicca rupees.* The intrinsic worth of this coin was estimated to be equal to the nominal value of it; or as nearly so as deemed necessary to render it current at the prescribed rate. But whether owing to the effect of the orders for the introduction of the over-rated gold coin of 1766, the considerable value of the new gold-mohur, and the want of divisions of it, so as to render the coin calculated for the dealings of the lower orders of the people in the interior parts of the country, or other causes, the currency of it has been confined almost entirely to Calcutta; where it has been received and paid in all public and private payments at the fixed value of sixteen sicca rupees. But this partial currency of the gold coin has enabled the money changers to practice an abuse upon the public and individuals, of a nature similar to that which has prevailed regarding the silver. Individuals are obliged to receive gold-mohurs at the full value in all payments made to them from the treasury at Calcutta. But as the coin will not pass in the interior parts of the country, the receivers are under the necessity, when they have occasion to make purchases or advances out of Calcutta, to sell their gold-mohurs to a shroff, for silver of the currency of the district in which their purchases are to be made; or, what is the same, for a bill on his house in the district, payable in that currency; as the shroff, in the latter case, exacts the discount in fixing the exchange. The shroffs pay the gold, which they thus purchase at a discount, into the treasury at Calcutta at par, whenever they have payments to make to Government. The gold-mohurs are in this manner immediately thrown back upon the treasury, whenever an opportunity offers; and the shroffs levy a discount on them as often as they are issued from it. The obstruction to the circulation of the gold coin out of Calcutta necessarily affects its value in purchases in the markets within the town; where

* Vide "Plan for the establishment of a gold currency, proposed by the president and council, on the 20th March 1769, and carried into effect with the consent of the Nabob of Moorshedabad." Vol. 3, of COLEBROOKE'S Digest: p. 366.

also a discount is frequently exacted upon it. The means which appear best calculated to render the goldmohur generally current are, to declare it receivable at all the public treasuries, and in all public payments throughout the provinces, at the rate of sixteen sicca rupees; to make it a legal tender of payment in private transactions; to coin a great proportion of halves and quarters; and lastly, to impose a duty upon all gold bullion sent to the mint to be coined, so as to prevent too large a proportion of gold being introduced into circulation, by diminishing in some degree the advantage at present derived from the importation of it in preference to silver. Upon the above grounds, the regulations of the 20th June, 24th October, and 21st November 1792,* were adopted; and this detail of them, by apprizing individuals of the principles on which the coin of the country is regulated, will enable them to guard against the impositions of the money changers; who alone derive advantage from the want of a uniform gold and silver currency. The regulations above mentioned, are hereby re-enacted with amendments.”

THE rules prescribed by Regulation 35, 1793, have since been partly rescinded and partly modified. But such of them will be specified as are now in force; or require notice for the purpose of explaining the provisions since enacted. 1. Mints had been previously established, under the regulations of 24th October 1792, at the cities of Dacca, Moorshedabad, and Patna, in addition to the mint at Calcutta; and the whole of these mints were directed to coin “sicca rupees and goldmohurs of the nineteenth sun (viz. the 19th year of the reign of Shah Aalum) of the following weight and standard, and half and quarter rupees, and goldmohurs of the same standard, and proportionate weight.”

Rules in Regulation 35, 1793, since partly rescinded, or modified.

Reg 35, 1793.
Section 2.
Weight and standard of rupees, and goldmohurs, to be coined at mints of Calcutta, Dacca Moorshedabad, and Patna.

Nineteen Sun Sicca Rupee.

Troy weight, $179\frac{1}{2}$ grains. Bengal weight, 16 annas. Bengal assay; touch, or parts of fine silver in 100, $97\frac{1}{11}$. Alloy $2\frac{1}{11}$. Assay com-

* Vol. 3, of COLLEBROOKE'S Digest, p. 371 to 374.

pared with English standard silver; viz. 11 oz. 2 dwt. pure silver; and 18 dwts. alloy; 13 dwts. better.

Nineteenth Sun Gold Mohur.

Troy weight, 190.890 grains. Bengal weight, 17 annas. Bengal assay; touch, or parts of fine gold in 100, 99 $\frac{1}{4}$. Alloy $\frac{3}{4}$. Assay compared with English standard gold; (viz. 22 carats, or 88 grain, pure gold, and 2 carats, or 8 grains alloy;) 1 carat, 3 $\frac{1}{4}$ grains, better. 2. It was further directed that all goldmohurs, of the weight and standard above specified, "coined in the Calcutta mint since the 20th March 1769, or which may be coined in that mint, and in the mints of Patna, Dacca, and Moorshedabad, and also their halves and quarters, are to be considered a legal tender of payment in all public and private transactions throughout the provinces of Bengal, Behar, and Orissa, at the rate of sixteen sicca rupees of the nineteenth sun, for each mohur, and the half and quarter mohur in proportion. If a native officer, of any public treasury, shall be convicted before the court of dewanny adawlut of any zillah or city, of refusing to receive in payment any such goldmohurs, or the halves or quarters of them, at the rates directed, the court shall adjudge the offender to be dismissed from his office; and further compel him to pay to the complainant his costs of suit, and such damages as to the court may seem proper upon a consideration of the circumstances of the case."

Section 3.
Goldmohurs of full weight and standard, coined since the 20th March 1769, to be a legal tender of payment at the rate of sixteen sicca rupees.

Name of officers liable to dismissal and to pay costs and damages, upon being convicted of refusing to receive the gold coin.

Mints at Dacca, Moorshedabad, and Patna withdrawn when no longer required. Special provisions respecting their mints therefore not stated, general object of them.

Section 4.
Coins of different mints to be received and paid indiscriminately.

THE mints established at Dacca, Moorshedabad, and Patna, having been withdrawn, as soon as their continuance for a sufficient supply of the prescribed coin appeared to be no longer requisite, it is unnecessary to detail the provisions in Regulations 35, 1793, which had special reference to those mints; and had in view a coinage of precisely the same weight, standard, shape and impression, with the coins struck at the Calcutta mints; it being provided that "the gold and silver coin struck at the different mints is to be received and paid indiscriminately, at the prescribed value, in all public and private transactions." It will be sufficient

sufficient to state the following rules of a general nature; with the qualifications of some of them, which have been since enacted.

3. "To guard as far as possible against the counterfeiting, clipping, drilling, filing, defacing, or debasing the coin, the edges both of the gold and silver coin are to be milled; and the dies are to be made of the same size as the coin; so that the whole of the impression may appear upon the surface of it" 4. "Persons charged with counterfeiting, clipping, filing, drilling, defacing, or debasing, the gold or silver coin, are to be committed to the criminal courts, and punished according as the law may direct." 5. *First.* By Section 13, Regulation 35, 1793, "all officers, agents, gomastahs, or others employed in the collection or payment of the public revenue, or the rents of individuals, or the provision of the investment, the manufacture of salt, or opium, and all proprietors and farmers of land, dependant talookdars, under farmers and ryots, and all persons whomsoever, are prohibited affixing any mark whatever to the gold or silver coin; and all rupees or goldmohurs, or half or quarter rupees or goldmohurs, that may be so marked, are declared not to be legal tenders of payment in any public or private transaction; and the officers of Government are directed to reject any rupees or goldmohurs, or any half or quarter rupees or goldmohurs, so marked, that may be tendered at the public treasuries." *Second.* The above rule is modified by Section 3, Regulation 2, 1812, as follows, "Such part of Section 13, Regulation 35, 1793, as declares that rupees, and the halves, or quarters of a rupee, to which any mark may have been affixed, shall not be considered a legal tender of payment in any public or private transaction, is hereby rescinded. Such marked rupees, halves, and quarters, being of the nineteenth sun, shall be in future receivable in all public and private transactions; provided that, when separately weighed, the deficiency, in point of weight, be not more than six annas per cent, or six sixteenths of a rupee in one hundred rupees." 6. *First.* "As the number of the nineteenth sun sicca rupees in circulation,

Section 7:
Coin to be milled and to be of the same size as the die, so as to receive the whole impression upon it.

Section 12.
Persons charged with counterfeiting the coin or other offences specified, to be committed to the criminal courts.

Section 13.
All persons prohibited affixing marks to the coin.

Coin so marked not to be a legal tender of payment, and to be rejected at the public treasuries.

Modification in Section 3, Regulation 2, 1812, Rules in Regulation 35, 1793, declaring marked rupees not a legal tender rescinded, and such rupees to be received, if not more than 6 annas per cent deficient in weight.

Section 14.
Rule and valuation according to

ding to which
all rupees not
being nine
teenth sun siccas
are to be receiv-
ed in discharge
of the public
revenue until
the 10th April,
1794.

in some districts, may not be sufficient to enable the proprietors and farmers of land to pay such part of their revenues, as they may not pay in gold, in rupees of that description, the various sorts of rupees current in the several districts will be received at the public treasuries from the proprietors and farmers of land in payment of their revenue until the 10th April 1794, at the fixed rates specified in the following table; which are calculated agreeably to the difference of the intrinsic value, that each species of rupee bears to the nineteenth sun sicca rupee, as ascertained by assay in the Calcutta mint."

				<i>Sicca Weight</i>	<i>19 Sun Siccas.</i>
Siceas of Moorshedabad, Patna, and Dacca,...				100	100 0 0
Phooley Sonats,	"	"	"	do.	100 0 0
Delby Mahomet Shai,	"	"	"	do.	99 8 0
Money Surat, large,	"	"	"	do.	99 8 0
Benares Sicca,	"	"	"	do.	99 8 0
Bissun Arcot,	"	"	"	do.	97 14 6
Sonats Sabie and Duckie,	"	"	"	do.	97 8 0
Forshee Arcots,	"	"	"	do.	97 6 6
French Arcots,	"	"	"	do.	97 0 0
Patanca Arcots,	"	"	"	do.	96 9 6
Arungzebce Arcots,	"	"	"	do.	95 9 6
Gursaul,	"	"	"	do.	96 9 6
Madras Arcots new,	"	"	"	do.	96 4 9
Masulipatam and Shardar Arcots,	"	"	"	do.	96 0 0
Patna Sonats old,	"	"	"	do.	96 0 0
Benares Rupees old,	"	"	"	do.	95 14 6
Madras Arcots old,	"	"	"	do.	95 14 6
Faruckabad Rupees,	"	"	"	do.	95 12 9
Jehajce Arcots,	"	"	"	do.	95 11 3
Chanta Arcots,	"	"	"	do.	95 11 3
Calcutta and Moorshedabad Arcots,	"	"	"	do.	95 6 6
Old Arcots,	"	"	"	do.	95 3 3
Dutch Arcots,	"	"	"	do.	95 0 0
Surat Arcots	"	"	"	do.	94 0 0
Benares Triolie,	"	"	"	do.	93 6 6

Viziery

	<i>Sicca Weight.</i>	<i>19 Sun Siccas.</i>
Viziery Rupees, -	100	63 0 0
Narainy half Rupee, new,	do.	63 0 0

Second. A sufficient number of sicca rupees of the nineteenth sun not having been circulated, as expected, by the 10th April 1791, the period specified in the above clause was extended by Regulations 6, 1791, and 59, 1795, to the 10th April 1796, corresponding with the 31st Chyte of the Bengal year 1202; 18th Chyte 1203 Fussily; and 31st Chyte 1203 Willaity. In consequence of delays in promulgating the regulations in the districts of Sylhet and Chittagong, the stated period was further extended by Regulations 3, 1799, and 54, 1803, to the 10th April 1798, in the former district; and in the latter to the 16th August 1803, or 1st Bhadoon of the Bengal year 1210. 7. *First.* "To prevent misconception of the mode of receiving rupees of sorts under the above table, it is to be understood, that one hundred sicca weight, of each of the sorts of rupees specified in the first column (whatever number of the rupees may go to that weight) is to be considered equal to the number of the nineteenth sun sicca rupees placed opposite to it in the second column." *Second.* "If any other species of rupees, besides those specified in the table, are tendered in payment at any of the public treasuries, one hundred sicca weight of them, indiscriminately taken from the sum paid in the presence of the payer or his agent, is to be sent to the nearest mint to be assayed; and the payer shall receive credit for a number of the nineteenth sun sicca rupees, equal in weight to the silver of sicca standard that the rupees so paid may be estimated to contain, according to the assay; after deducting twelve annas per cent, for the expence of refining, should the rupees be under sicca standard." 8. "Rupees of sorts which may be received at the public treasuries, agreeably to the table abovementioned, are not, on any account, to be issued therefrom; but are to be sent to the mint, and coined into siccas of the nineteenth sun." 9. After the 10th April 1796, (except in Sylhet and Chittagong, where the period was extended

Period fixed in above section extended to the 10th April 1796, by Regulations 6, 1791, and 59, 1795.

Further extension by Regulations 3, 1799, and 54, 1803.

Reg. 35, 1798, § 15 Explanation of the mode of receiving rupees agreeably to the above table.

Section 16. Rule for rupees tendered at the public treasuries which are not specified in the table.

Section 17. Rupees of sorts received at the public treasuries to be sent to the mint for recoinage.

Section 18. Modified by Regulation 6, 1796; 59, 1795.

3. 1793; and 54. 1859
After the 10th April 1796, no silver or gold coin, excepting the sicca rupee or gold-mohur of the nineteenth sun, or the halves and quarters of each, shall be legal tenders of payment.

Section 19.
Notified, a bond or agreement for the payment of money, entered into prior to the 10th April 1796, to be dischargeable either in the coin stipulated in the deed, or in nineteenth sun sicca rupees or gold-mohurs.

Section 20.
Agreements executed after the 10th April 1796, stipulating for the payment of money in any other specie excepting sicca rupees or gold-mohurs of the nineteenth sun, or the halves or quarters of each, shall not be valid in any court of justice.

Section 21.
All engagements on the part of Government for the provision of the investment, or sale, to be made in the nineteenth sun sicca rupee or gold-mohur. Engagements for sale and revenue to be made in the same coin.

Arrangements stipulating the payment of any other coin not acceptable.

as stated in the sixth rule,) “no other rupee but the nineteenth sun sicca, and no other gold-mohur but the nineteenth sun gold-mohur, or the halves and quarters of each, shall be received at any of the public treasuries or issued therefrom, on any account whatever; and no other rupees or gold-mohurs, excepting the rupees and gold-mohurs of the nineteenth sun, and the halves and quarters of each, shall be legal tenders of payment in any public or private transaction.” 10. Bonds, writings, or other agreements, written or verbal, entered into prior to the 10th April 1796, whereby a sum of money is stipulated to be paid in any species of rupee or gold-mohur, excepting the nineteenth sun sicca, or the gold-mohur of the nineteenth sun, and which may not be discharged previous to the abovementioned date, may be liquidated, at the option of the debtor, either in the rupee specified in the instrument, or in the nineteenth sun sicca rupee at the valuation specified in the above table; or in the nineteenth sun gold-mohur.” 11. *First.* By Section 20, Regulation 35, 1793, it was provided that, after the 10th April 1794, (extended as above noticed, to the 10th April 1796,) “no person shall recover in any court of judicature in the provinces of Bengal, Behar, or Orissa, any sum of money under a bond, or other writing, or any agreement written or verbal, entered into after the abovementioned date, by which any sum of money shall be stipulated to be paid in any species of rupees excepting sicca rupees, or gold-mohurs, of the nineteenth sun, or the halves and quarters of each.” *Second.* By Section 21, of the same regulation, it was further provided that “all engagements hereafter entered into on the part of Government for the provision of the investment, or the manufacture of salt, are to be made in the sicca rupee, or the gold-mohur, of the nineteenth sun; and all proprietors and farmers of land are prohibited from concluding engagements with their under farmers, ryots, or dependant talookdars, after the 10th April 1794, (extended to 10th April 1796,) in any species of rupees or gold-mohurs, excepting the sicca rupees and the gold-mohurs of the nineteenth sun, under the penalty of not being permitted to re-

cover any arrears that may become due to them under such engagements." *Third.* After the expiration of the period specified for the operation of the above sections, many engagements and agreements were entered into for rupees of local currency, or used as a known and accustomed measure of value, though no longer current. In some instances this was ascertained to have proceeded from an insufficient promulgation of the regulations; and in general, the party receiving, for money or value due to him, an engagement declared invalid by the regulations, might be presumed not to have been aware of the existence of such a provision at the time of his taking the nugatory engagement. In such cases the penalty of non-recovery by judicial process was considered by Government not only a hardship to the individual, but repugnant to the ends of justice. It was therefore deemed expedient that the provisions abovementioned should be modified, in such manner as might be consistent with the object of policy intended by them; and the following rules were accordingly enacted for this purpose, in Regulation 13, 1807. *Fourth.* "Section 20, Regulation 35, 1793, and so much of Section 21, of the same regulation, as declares a penalty of non-recovery upon engagement in any species of rupees, or gold-mohurs, excepting those of the nineteenth sun, together with such parts of Regulations 6, 1794, and 50, 1795, as relate to the rule contained in Section 20, Regulation 35, 1793, and the penalty declared in Section 21 of that regulation, are hereby rescinded." *Fifth.* "Bonds, or other engagements, and all agreements, written or verbal, which have been or may be entered into, within the provinces of Bengal, Behar, or Orissa, including Cuttack, stipulating for the payment of money in any other species of rupee or gold-mohur, than the sicca rupee or gold-mohur of the nineteenth sun, described in Section 2, Regulation 35, 1793, may be liquidated, at the option of the debtor, in the gold-mohur of the nineteenth sun, or in the nineteenth sicca rupee, at the valuation stated in the table of sicca and other rupees, contained in Section 14, Regulation 35, 1793." *Sixth.* "If the bond, or other engagement, or agreement, stipulate for the payment of any spe-

Reasons for modifying the Regulation, stated in the preamble to Regulation 13, 1807.

Regulation 13, 1807, Sec. 2, 5, 6, 7, 8, and part of Section 21, Regulation 35, 1793, and part of Regulations 6, 1794, and 50, 1795, are hereby rescinded.

Section 4. If a bond or other engagement in any species of rupee or verbal, entered into in the provinces hereof, stipulating for the payment of money in any other species of rupee or gold-mohur, than the sicca rupee or gold-mohur of the nineteenth sun, may be liquidated at the option of the debtor.

Section 5. How bonds or other engagements

ments or agreements for the payment of any species of rupee not specified in the table referred to in the preceding section, may be liquidated at the option of the debtor.

Section 6.

How the courts of justice are to give judgment in the provinces herein specified, on bonds or other engagements stipulating for the payment of money in any other species of rupee or gold-mohur, than the sicca rupee or gold-mohur of the nineteenth sun.

Section 7.

Challenges to the payment of money entered into in the provinces herein specified after the promulgation of this regulation, shall be in the sicca rupee or gold-mohur of the nineteenth sun. Penalty for breach of this rule.

Section 8.

Civil courts to enforce the penalty in all cases judicially before them after the promulgation of this regulation, wherein a breach of the above rule may appear.

Regulation 35, 1793. Section 12.

Punishment for native officers at any of the public treasuries refusing to receive the nineteenth sun gold-mohur or rupee in payment.

cies of rupee not specified in the table referred to, it shall be at the option of the debtor to pay, in rupees or gold-mohurs of the nineteenth sun, the intrinsic value of the rupees stipulated; to be ascertained by assay at the nearest mint, in the manner provided by Section 16, Regulation 35, 1793. *Seventh.* "The courts of judicature within the provinces of Bengal, Behar, and Orissa, (including Cuttack,) in giving judgment upon bonds, or other engagements, stipulating for the payment of money in any other species of rupee, or gold-mohur, than the sicca rupee or gold-mohur of the nineteenth sun, shall adjudge the amount to be payable in gold-mohurs or sicca rupees of the nineteenth sun, according to the table of valuation contained in Section 11, Regulation 35, 1793; or if the stipulated species of rupee be not specified in that table, according to the intrinsic value, to be ascertained by assay in the manner prescribed by the preceding clause." *Eighth.* "All bonds and other engagements, or agreements for the payment of money, which may be entered into, after the promulgation of this regulation, in any part of the provinces of Bengal, Behar, and Orissa, (including Cuttack,) are required to be in the sicca rupee or gold-mohur of the nineteenth sun; under penalty, for disobedience to its requisition, of a fine to Government, to be levied from the person taking such engagement, not exceeding one-fourth of the amount stipulated to be paid in any other species of rupee or gold-mohur." *Ninth.* "The civil courts of judicature shall enforce the penalty provided for in the preceding section, in all cases judicially before them, wherein any bond, engagement, or agreement, executed after the promulgation of this regulation, may be found to stipulate for the payment of any other species of rupee or gold-mohur, than those of the nineteenth sun." 12. *First.* "If sicca rupees of the nineteenth sun of full weight, or the halves or quarters of such rupees, shall be tendered at any of the public treasuries, and any of the native officers shall refuse to receive them in payment of any public demand, and shall require any other species of rupees; or if any of the species of rupees mentioned in the

the table (included in the sixth rule) shall be tendered at the public treasuries prior to the dates specified in the ninth rule, at the valuation specified in the table, and any native officer shall refuse to receive them at such valuation; upon proof of such offence before the dewanny adawlut of the zillah or city in which the complaint may be cognizable, the court shall dismiss the offender from his office, and oblige him to pay costs of suit and damages to the party complaining." *Second.* After the date specified in the ninth rule, "if any native officer at any of the public treasuries shall be convicted of receiving in payment of a public demand any gold or silver coin, excepting the gold-mohur or the sicca rupee of the nineteenth sun, or the halves and quarters of each, the court shall dismiss him from his office; and adjudge him to pay such fine to Government as may appear to them adequate to the offence."

Section 29.
Native officers at
any of the pub-
lic treasuries
liable to fine
and dismission
for receiving
any coin but the
nineteenth sun
rupee or gold-
mohur after
the 10th April
1796.

No provision was made by Regulation 35, 1793, for any deficiency in the standard weight of sicca rupees of the nineteenth sun, after the period fixed for their being, with the nineteenth sun gold-mohurs, or the halves and quarters of each, the only legal tenders of payment. With a view to prevent the recurrence of former abuses, it was intended that no rupees should be received in future except such as were of full weight. In weighing however the rupees tendered at the public treasuries, with standard weights, (substituted for a specific number of the new coin,) it was found that the nineteenth sun sicca rupees, almost immediately after their introduction into circulation, were from two to four annas per cent deficient in weight; and it was ascertained that, from the of number of points in the inscription and the fineness of the silver, this deficiency invariably arose on the first circulation of the new coin; after which it would circulate several years without suffering any considerable diminution in its weight. In order therefore to obviate the loss and inconvenience that would have resulted both to the public and individuals by rejecting the new coin on account of the smallest deficiency in weight, and consequently compelling the holders to return it to

No provision in
Regulation 35,
1793, for defi-
ciency in weight
of the nineteenth
sun sicca rupees.

Reasons for
making such
provision by
Regulation 61,
1795, inserted in
preamble to that
regulation.

Reg. 61, 1795.
Sec. 2.

Sicca rupees of the nineteenth sun which may not have lost by wear more than six annas per cent, to be received as of full weight.

Section 3.

The above rule applicable on y^e to loss of weight by wear.

Rule in case of loss of weight by artificial means.

Section 4.

And in cases where the loss of weight by wear shall exceed six annas per cent.

How such rupees shall be received.

Not to be disbursed again.

Section 5.

Mint master to furnish standard weights.

Section 6.

Rules to apply to the quarters and halves of rupees

Reg. 85, 1793.
Sec. 25, and
Reg. 2, 1819,
Sec. 5.

No duty to be levied on the recoinage of old gold-mohurs,

the mint almost immediately after its being issued, the following rules were established by Regulation 61, 1795. 13. *First*. "All sicca rupees of the nineteenth sun, which shall not have lost by wear a greater proportion of their full standard weight than six annas per cent, or six-sixteenths of a rupee in one hundred rupees, shall be considered as of standard weight, and be received as such in all public and private transactions." *Second*. "The above rule however is to be considered applicable to those nineteenth sun rupees only, in which the loss of weight has been occasioned by wear. Whenever rupees of the above description may have lost any part of their full weight, although such loss shall not exceed six annas per cent, by filing, clipping, or other artificial means, they shall not be considered as of standard weight; and if tendered in payment at any of the public treasuries, or offices, they shall be received at their intrinsic value as hereafter directed; and the podars, or examiners of the public money, are required to separate all such rupees." *Third*. "Rupees of the nineteenth sun deficient in weight from any other cause excepting wear, or deficient in weight from wear in a greater amount than six annas per cent, are to be received agreeably to the following rule. For one hundred sicca weight, of such light nineteenth sun sicca rupees, the payer is to receive credit for one hundred nineteenth sun sicca rupees. The light rupees thus received at the public treasuries are not to be disbursed again; but are invariably to be sent to the mint to be recoined." *Fourth*. "The mint master at Calcutta is required to furnish the Board of Revenue, for the use of the collectors, with stamp metal weights, of fifty sicca weight each, or such other weight as may be required by them; and all receipts and payments at the public treasuries are to be regulated agreeably to such standard weights." *Fifth*. "The foregoing rules are to be considered equally applicable to the halves and quarters of the nineteenth sun sicca rupee." 14. *First*. "No duty is to be charged on the recoinage of old or light gold-mohurs, or half or quarter gold-mohurs, coined at the Calcutta mint since the 20th March 1769; nor on the recoinage of any gold-mohurs, or half or quarter gold-mohurs

hurs, which may be coined in the mints of Patna, Dacca, Moorshedabad, or Calcutta, after this date." But in consideration of the expense incurred in refining gold, not of the gold-mohur standard, as well as with a view to discourage the importation of gold bullion, in preference to silver bullion, the following rules are established by Section 5, Regulation 2, 1812; substituted for Section 24, Regulation 35, 1793. *Second.* "A duty shall be levied at the rate of two rupees and eight annas per cent at the Calcutta mint, on the produce of all gold bullion and on all gold coin, with the exception of the mohurs, half mohurs, and quarter mohurs, mentioned in Section 25, Regulation 35, 1793." *Third.* "For all gold bullion or coin, equal to or above Calcutta standard, which may be brought to the mint for coinage, a number of the nineteenth sun gold-mohurs, or of the halves and quarters of such mohurs, equal in weight to the gold of the established standard contained in such bullion, shall be returned to the proprietor, after deducting the duty mentioned in the preceding clause." *Fourth.* "All gold bullion or gold coin, being under mohur standard, which may be delivered into the Calcutta mint for coinage, shall be refined to the established gold-mohur standard; and in addition to the above duty of two rupees eight annas per cent, all such bullion or coin shall be subject to a charge, on account of the loss and expense of refining, agreeably to table No. 2, in addition to the established deduction on account of the inferiority of standard."* *Fifth.* "The mint master, on the delivery of gold bullion or coin into the mint of Calcutta for coinage, shall grant to the proprietor a receipt, entitling him to a certificate from the assay master for the net produce of such bullion or coin, according to the table noticed in the preceding clause; payable at the general treasury at Calcutta, at the expiration of ten days from the date of such certificate." 15. *First.* The following rules, for levying a

halves or quarters coined in the Calcutta mint since the 10th March 1769; or which may be hereafter coined in any of the mints.

Reg. 35, 1793, § 24, modified by Reg. 2, 1812, Sec. 5. Reasons for imposing a duty on coinage of gold, not of gold mohur standard.

Reg. 2, 1812, Sec. 5, Clause 2.

A duty of two rupees and eight annas per cent to be levied on all gold bullion or coin, except those specified in Section 25, Regulation 35, 1793.

Clause 3. Rule as to the return to be made for gold bullion, &c., equal to or above the Calcutta standard.

Clause 4. Rules as to gold bullion, or coin, under mohur standard.

Clause 5. Rules as to receipts and certificates to be granted to the proprietors of bullion; and payment of the amount.

Rules for levying a duty on

* The table here referred to is entitled *Table of the produce of gold bullion, in the Calcutta mint*; and states, for every hundred sicca weight of gold, the assay per cent; loss and charges in refining assayed produce in gold-mohurs, duty of $2\frac{1}{2}$ per cent on coinage, and net produce in gold-mohurs. It has not been judged necessary to introduce this table at length; or the other tables annexed to Regulation 2, 1812.

coinage of silver established by Regulation 2, 1812, Section 2.

Clause 2.
All silver bullion or coin not struck at the Calcutta mint delivered at the mint for coinage, to pay a duty of 2 per cent.

Clause 3.
If coined into halves and quarters of a rupee to pay an additional duty of one per cent.

Clause 4.
Calcutta siccas so coined to pay only the additional duty.

Clause 5.
All silver bullion or coin of inferior standard to pay 12 annas per cent for the expense of refining.

Clause 6.
Rules as to receipts and certificates to be granted to the proprietors of bullion, &c. and the payment thereof.

duty on the coinage of silver bullion, or coin not struck at the Calcutta mint, are also established by Section 2, Regulation 2, 1812; instead of those prescribed by Sections 4, 5, and 6, Regulation 35, 1793. *Second.* "From and after the first day of May 1812, all silver bullion or coin, not being rupees struck at the Calcutta mint, which may be delivered into that mint for coinage, shall be subject to a duty at the rate of two per cent on the produce of such bullion or coin in sicca rupees of the Calcutta weight and standard; and the amount of the said duty shall be accordingly deducted from the return to be made to the proprietor." *Third.* "Individuals, who may be desirous of it, shall be at liberty to have their bullion or coin converted into halves or quarters of a rupee, on condition of paying a duty at the rate of one per cent, in addition to the duty of two per cent established by the preceding clause." *Fourth.* "Should the coin however, brought to the mint for that purpose, consist of Calcutta siccas, the proprietors shall only be subject to the additional duty of one per cent, and not to the duty payable, under the second clause of this section, on all other coin and bullion." *Fifth.* "All silver bullion and coin, being inferior to the Calcutta sicca standard, which may be brought to the mint for coinage, shall be refined to that standard; and the proprietors shall be subject, in addition to the duties established by the preceding clauses, to a charge at the rate of twelve annas per cent on account of the loss and expence of refining, exclusive of the established deduction on account of inferiority of standard." *Sixth.* "On delivery of the silver bullion or coin into the mint, the mint master shall grant to the proprietor a receipt, entitling him to a certificate from the assay master, for the net produce of such bullion or coin agreeably to the table subjoined to this regulation, and marked No. 1, payable at the general treasury at Calcutta; at the expiration of ten days, if the produce be deliverable in whole rupees, and at the expiration of twenty days, if the produce be deliverable in halves or quarters of a rupee, from the date of such certificate. In the latter case, the additional duty established by clause third is of course to be deducted

deducted from the net produce.”* 16. It is further provided by Section 6, Regulation 2, 1812, that “the proprietor of any gold or silver bullion or coin, brought to the Calcutta mint for coinage, who may be dissatisfied with the assay master’s report of its value, shall be at liberty to withdraw such bullion or coin, without being subject to the duties on coinage established by the present regulation.”

Reg. 2, 1812,
Sec. 6,
Proprietors of
bullion, dis-
satisfied with
the assay mas-
ter’s report,
may withdraw
it without the
payment of
duties.

17. The following registers are to be kept open at the mint, for public inspection; 1. “*A register of unassayed bullion delivered into the mint; specifying the quantity delivered; the date on which it was received; and the name of the proprietor.*” 2. “*A register of bullion assayed and refined; specifying the date on which it was assayed, and the date on which it was refined; the name of the proprietor; and the produce in sicca rupees or gold-mohurs; together with the date of the certificate granted for the produce; and the date on which such certificate was discharged.*” 18. “Collectors of the revenue, commercial residents or agents, salt agents, the mint master at Calcutta, and their respective officers, are liable to be sued for damages in the zillah or city court to which they may be amenable, for any breach of the regulations enacted respecting the coin.”†

Reg. 35, 1793,
Sec. 27
Registers to be
kept for public
inspection in
the mint.

Section 28.
European and
native officers
specified liable
to be sued for
any breach of
the regulations
respecting the
coinage.

2. CUT-

* The table here noticed specifies, for every hundred rupees of sicca weight, the assay compared with English standard; assay compared with sicca standard; allowance for loss in refining; charges for refining, assayed produce in sicca rupees; and net produce, after deducting 2 per cent for coinage.

† In addition to the gold and silver coins which have been mentioned, a copper pice, or quarter of an anna, weighing 9 annas sicca weight, and current at the rate of 64 for the sicca rupee, is coined at the Calcutta mint for circulation in the lower provinces. The inscription upon this coin is the same as that prescribed by Section 3, Regulation 10, 1809, for the British copper coin hereafter noticed. But it is not expressly recognized in any printed regulation. The following advertisement was published, by order of Government, on the 24th September 1791; but it is considered to have become obsolete; and none of the piece specified in the annexed table are now coined. “The Honorable the Governor General and Council having thought proper to establish a copper coinage, and copper coins having by their order been struck, of the denomination, value and weight, and with the inscriptions, described in the annexed table, they hereby authorize them to be circulated throughout the provinces under their Government, at the rate of eighty sicca rupees for the maund of eighty sicca weight; at which rate they will be issued from their treasuries and other public offices. And as it is their intention to make the circulation of the copper coin general throughout all the districts, they hereby order and

direct

2. C U T T A C K.

Rules stated for Bengal, Behar, and Orissa, how far extended to Cuttack, and its dependencies.

Reg. 12, 1805, Sec. 13, and Reg. 4, 1807, Sec. 9.
Period fixed for exclusive currency of nineteenth sun sicca rupee, and gold-mohur.

THE rules which have been stated for the coinage of Bengal, Behar, and Orissa, are extended to the district of Cuttack, and to the dependencies of that district annexed to zillah Midnapore, by the provisions contained in Sections 13, 14, and 16, Regulation 12, 1805; Sections 8, 9, 10, Regulation 4, 1807; and Sections 3 to 8, of Regulation 13, 1807; with the following exceptions. 1. The expiration of the Willaity year 1215, is the period fixed for Cuttack and its dependencies, after which "no money will be received in payment of the public revenue excepting Calcutta sicca rupees, or gold-mohurs of the nineteenth sun; or the halves and quarters of those coins; unless the Governor General in Council deem it necessary to dispense with the observance of this rule, by a proclamation for a specific and limited period of

direct all collectors of the revenues, and other persons entrusted with the receipt of public money, to receive the same when tendered, in the proportion of ten rupees in every thousand; to be weighed when paid in sums exceeding half a maund in weight, and to be issued again in like manner, and at the above rate, in all public payments. And in order to establish it as a necessary division of a sicca rupee, and a convenient medium between silver and couries in the purchase of the common necessities of life, the Governor General and Council direct that the copper coin be received and paid according to the relative value fixed in the annexed table, of copper to couries, without any discount or batta whatever; which however is not to influence or affect the bazar price of couries in any other manner than in the change of the one for the other."

TABLE shewing the denomination, value, weight, and also the inscriptions, of the copper coin struck by order of the Honorable the Governor General and Council; the circulation of which they hereby authorize throughout the provinces under their Government.

Denomination.	Relative value to a sicca rupee.	Relative value to couries.	Weight.
MADOSIE,	6 pice sicca each; 2 equal to an anna sicca; and 32 to a sicca rupee.	equal to 160 couries.	20 annas sicca weight each; or 2,560 in the maund of 80 sicca weight.
FALOOS,	3 pice sicca each; 4 equal to an anna sicca; and 64 to a sicca rupee.	equal to 80 couries.	10 annas sicca weight each; or 5,120 in the maund of 80 sicca weight.
NEEM FALOOS,	1½ pice sicca each; 8 equal to an anna sicca; and 128 to a sicca rupee.	equal to 40 couries.	5 annas sicca weight each; or 10,240 in the maund of 80 sicca weight.
PAW FALOOS, ..	¾ pice sicca each; 16 equal to an anna sicca; and 256 to a sicca rupee.	equal to 20 couries.	2½ annas sicca weight each; or 20,480 in the maund of 80 sicca weight.

time." 2. Rupees of sorts were made receivable, till the expiration of the Willaity year 1215, at the rates of batta, at which such rupees have hitherto been respectively received; instead of the rates specified in the table contained in Section 14, Regulation 35, 1793.

Reg. 4, 1807,
Sec. 8.
At what rates
rupees of sorts
to be received
till expiration
of Willaity year
1215.

3. B E N A R E S.

THE following rules concerning the silver coinage of this province are contained in Sections 10 to 33, of Regulation 2, 1812.

Rules for silver
coinage of the
Benares pro-
vince, in Regu-
lation 2, 1812.

§ 10. "The silver coin now current in the province of Benares, under the denomination of the *muchleedar* rupee, commonly called the Benares rupee, shall continue to be the established coin of that province; and shall be received as such in all public and private transactions." § 11. "The Benares rupees shall continue of the following weight and standard, and halves and quarters of a rupee shall be coined of the same standard and proportionate weight.

Section 10.
The Benares
rupees to be the
established coin
of that pro-
vince.

Section 11.
Its weight and
standard.

"Troy weight, grains,		-	-	175.
"Touch, or pure silver,		-	-	168. 875
"Alloy,		-	-	6. 125
"Assay {	Touch, or parts of pure silver in 100			96. 5
	Alloy,	-	-	3. 5."

§ 12. *First.* "The Benares rupee shall hereafter be struck of the same size and form as the nineteenth sun sicca rupee struck in the mint of Calcutta; but shall bear the same impression as is now in use in Benares." *Second.* "The halves and quarters of a rupee shall be proportionally less than the rupee, according to their

Section 12.
Size, form, and
impression of
the Benares ru-
pee.

And of halves
and quarters.

respective value, and shall have the same impression as the rupee."

§ 13. "To guard as far as possible against counterfeiting, clipping, drilling, filing, defacing or debasing the coin, the edges of it shall be milled; and the dies shall be made of the same size as the coin; so that the whole of the impression may appear on the surface of the coin." § 14. "The dies for striking the silver

Section 13.
The edges to be
milled.

Section 14.
The dies to be
cut in the Cal-
cutta mint, and

and

Returned when broken or unserviceable.

Section 15.
The conduct of the Benares mint committed to a mint and assay master, subject to the authority of the Board of Commissioners, and the native officers subject to the existing regulations for native servants.

Section 16.
The mint and assay master and native officers amenable to the dewanny adawlut of the city of Benares.

Section 17.
The magistrate to visit the mint monthly; and transmit specimens of the coinage.

Section 18.
Private marks to be put on the dies.

and shall be sent by the mint master at Calcutta to the mint master at Benares. When the dies are broken, or no longer serviceable, they shall be returned to the Calcutta mint." § 15. "The immediate conduct of the mint at Benares shall be committed to an officer, to be denominated the mint and assay master, with an adequate establishment of native officers. The mint and assay master shall be subject to the authority of the Board of Commissioners for the ceded and conquered provinces; and the native officers shall be subject to all the rules of the existing regulations, in common with all other natives in the service of Government." § 16. "The mint and assay master and the native officers of the mint shall be amenable to the dewanny adawlut of the city of Benares; and shall be liable to be sued for damages for any breach of this regulation, or of any other regulations, which may be enacted respecting the coin." § 17. "It shall be the duty of the magistrate of the city of Benares to visit the mint monthly; and to make such enquiries as he shall consider necessary, to satisfy himself of the manner in which the business of the mint is conducted; reporting the result of his enquiries in cases appearing to him to require it, to the Governor General in Council. The magistrate shall at the same time take indiscriminately out of the heaps of coin, at the foot of the striking presses, twenty pieces of each description of coin, which may have been struck off; and transmit ten of each to the secretary to Government in the Public Department, for the purpose of being forwarded to the Honorable the Court of Directors, and the other ten to the assay master at Calcutta, in order that he may cause the coin to be examined and assayed. If the specimens of coin so transmitted shall be found not to be of proper standard, or if the coin shall be defective in workmanship, or in any other respect, the assay master shall report the circumstance to the Governor General in Council for his orders." § 18. "The mint master at Calcutta shall cause a private mark to be put upon all the dies, which may be prepared for the mint at Benares, but in such a manner as not to be distinguishable by the naked eye, or by persons unacquainted with it;

it. These marks shall be varied as often as the mint master at Calcutta shall judge proper on new dies being made; and he shall keep a register of them, in order that he may be enabled to discover any counterfeit coin which may hereafter be circulated."

§ 19. "Persons charged with counterfeiting, clipping, filing, drilling, defacing, or debasing the silver coin of Benares, shall be committed for trial to the criminal courts; and shall be punished as the law may direct." § 20. "All Benares rupees of the prescribed weight and standard, or the halves and quarters of such rupees, according to the established value, shall be considered to be a legal tender of payment in all public and private transactions throughout the province of Benares. If a native officer of any public treasury shall refuse to receive in payment any such rupees, or the halves or quarters of such rupees, according to the established value, the offender shall be liable to be dismissed from his office; and should the circumstances of the case appear to require it, to be declared incapable of again serving Government in any public capacity." § 21. "All Benares rupees which shall not have lost individually, by wear, a greater proportion of the full weight than six annas per cent, or six-sixteenths of a rupee in one hundred rupees, shall be considered as of standard weight; and shall be received as such in all public and private transactions." § 22. *First.* "Benares rupees, which may be deficient in weight in a greater amount than six annas per cent, shall be received conformably to the following rule." *Second.* "For one hundred Benares sicca weight of such light rupees, the payer shall receive credit for one hundred Benares rupees. The light rupees, thus received at the public treasury, shall not be again disbursed; but shall be invariably sent to the mint at Benares to be recoined." § 23. "The rules contained in the preceding section of this regulation, shall be considered equally applicable to the halves and quarters of a rupee." § 24. "The mint master at Calcutta shall furnish the collector of Benares with stamp metal weights, of fifty Benares sicca weight each; or such other weights as may be required by him. All receipts and

Section 19.
Persons charged
with counter-
feiting, clip-
ping, &c. to be
committed for
trial to the cri-
minal courts.

Section 20.
Benares rupees
or their parts,
to be a legal ten-
der there.

Penalty for of-
ficers re-
fusing to receive
them.

Section 21.
Rupees to be
considered as of
standard weight,
if not deficient
more than six
annas per cent.

Section 22.
How light Be-
nares rupees
may be receiv-
ed.

To be receiv-
ed weight for
weight; such
light rupees not
to be again dis-
bursed; but re-
coined.

Section 23.
The rules in the
preceding sec-
tion applicable
to halves and
quarters of ru-
pees.

Section 24.
The collector of
Benares to be
furnished with
stamp metal
weights.

Section 25.
Registers to be
kept at the Be-
nares mint.

Section 26.
English copies
to be sent
when required,
to the Board of
Commissioners.

Section 27.
All duties, fees,
&c. hitherto le-
vied at the Be-
nares mint to
be discontinu-
ed.

Section 28.
Penalties pre-
scribed for native
officers &c. con-
victed of receiv-
ing any such in-
fluence.

Section 29.
A duty of a per-
cent to be levied
on all silver
bullion or coin
not being Be-
nares rupees,
brought to the
mint to be coin-
ed.

payments at the public treasury shall be regulated according to such standard weight." § 25. "The following registers shall be kept open at the mint of Benares for public information, viz: *A register of unassayed silver bullion delivered into the mint; specifying the quantity delivered, the date on which it was received, and name of the proprietor. A register of silver bullion assayed and coined; specifying the date on which it was assayed, the date on which it was refined, the name of the proprietor, and the produce in Benares rupees, together with the date of the certificate granted for the produce.*" § 26. "English copies of the registers prescribed in the foregoing section shall be sent, when required, to the Board of Commissioners." § 27. "All duties, fees, perquisites, or other imposts hitherto levied by Government or by individuals, under the names of *Russoom, Dustoorree, Salamee, Nuzurannah*, or any other denomination, shall immediately cease and determine; and the native officers and artificers who have been hitherto permitted to levy such fees, or perquisites, shall hereafter receive such personal salaries, or be remunerated for their labour in such manner, as Government may direct." § 28. "Every native officer or artificer, or other person employed in the mint at Benares, who may be convicted in a court of judicature of receiving any fee, gratuity, or perquisite whatever, in virtue of his office, shall be adjudged to make restitution of the fee, or perquisite so received by him, with double damages to the party from whom it may have been received, and a fine according to the circumstances of the case, not exceeding however six months salary. Persons offending in the manner above noticed, will likewise be, of course, liable to be dismissed from their offices; and should the circumstances of the case appear to require it, to be declared incapable of again serving Government in any public capacity." § 29. *First.* "From and after the first day of May 1812, all silver bullion or coin, not being rupees struck at the mint of Benares, which may be brought to that mint for coinage, shall be subject to a duty, at the rate of two per cent on the produce of such bullion, or coin, in-

sicca rupees of the Benares weight and standard; and the amount of the said duty shall be accordingly deducted from the return to be made to the proprietor." *Second.* "Individuals, who may be desirous of it, shall be at liberty to have their bullion or coin converted into halves or quarters of a rupee, on condition of paying a duty of one per cent, in addition to the duty of two per cent established by the preceding clause." *Third.* "Should the coin however brought to the mint for that purpose consist of Benares rupees, the proprietors shall only be subject to the additional duty of one per cent, and not to the duty of two per cent payable under the first clause of this section on all other coin and bullion:" § 30. "All silver bullion and coin, being inferior to the Benares sicca standard, shall be refined to that standard; and the proprietors shall be subject, in addition to the duties established by the preceding section, to a charge of twelve annas per cent, on account of the loss and expense of refining, exclusive of the established deduction on account of inferiority of standard." § 31. "On delivery of the bullion or coin into the mint, the mint master shall grant to the proprietor a receipt, entitling him to a certificate for the net produce of such bullion or coin, agreeably to the table subjoined to this regulation, and marked No. 4,* payable at the treasury of the collector of Benares, at the expiration of fifteen days, if the produce be deliverable in whole rupees; and at the expiration of twenty-five days, if the produce be deliverable in halves or quarters of a rupee, from the date of such certificate. In cases in which the produce may be deliverable in halves or quarters of a rupee, the additional duty established by Clause Second, Section 29, of this regulation, is of course to be deducted from the amount payable to the proprietor." § 32. "The proprietor of any bullion, or coin, brought to the mint at Benares for coinage, who may be dissatisfied with the assay master's report of its value, shall be at liberty to withdraw such bullion or coin, without being subject to

An additional duty of 1 per cent for halves and quarters of rupees.

Benares rupees refined into halves and quarters only to pay the last mentioned duty of one per cent.

Section 30.
Rules as to bullion of inferior standard.

Section 31.
Rules as to receipts and certificates, and the payment of them.

Section 32.
Persons dissatisfied with the assay master's report, may withdraw their bullion free of duty.

* This table corresponds with that already noticed, respecting the silver coinage of the lower provinces; except that it specifies the assay compared with the Benares sicca standard, instead of the Calcutta standard.

Section 33.
Manufacturers
of gold or silver
wire, &c. shall
not be subject
to any control
on the part of
the mint and as-
say master.

the duties on coinage established by the present regulation.”
§ 33. “It is hereby declared, that the manufacturers of gold and silver wire or leaf, and of flattened gold and silver, shall not be subject to any control on the part of the mint and assay master, notwithstanding any usage which may have hitherto existed to the contrary at the mint at Benares.”

Reg. 10, 1809.
Rules for cop-
per currency, in
the province
of Benares.

Section 2.
The copper
coin for Bena-
res shall be
pice of pure
copper and of
one size coined
at Calcutta.

Section 3.
Size and weight
of the coin.

Inscrip-tion.

PROVISIONS for regulating the copper currency of the province of Benares had been made, previous to the above rules for the silver coinage, by Regulation 10, 1809, as follows. 2. “The copper coin struck for the province of Benares shall be of pure copper, and shall be confined to pice of one size only, to be coined at the Calcutta mint.”* 3. “The pice shall be 19-20th parts of an inch in diameter; and shall weigh sicca weight eight annas nine pie, each; and shall bear the following inscription, in the Persian and Nagree characters :

On one side, in Persian.

“The 37th year of the reign of SHAH ALLUM BADSHAH ”

On the reverse, in both Persian and Nagree.

“One pie sicca.”

Section 4.
To be a legal
tender for any
fractional part
of a rupee.

4. “The copper coin, established by this regulation, shall be considered to be a legal tender of payment in all money transactions, whether between Government and its subjects, or between individuals in the province of Benares, for any sum being the fractional part of a rupee, at the rate of sixty-four pice for one Benares sicca rupee.” 5. “Persons charged with melting, coun-

Section 5.

* Inconvenience having been experienced from the delay incident to this rule, so much of Section 2, Regulation 10, 1809, as prescribed that the copper coin required for the province of Benares should be struck at the Calcutta mint, was rescinded by the first clause of Section 2, Regulation 7, 1814; and it is provided by the second clause of this section, that “the copper coin required for the province of Benares shall be in future struck at the city of Benares.” It is added, in Section 3 of the same regulation, that “in compliance with established usage, the figure of a *Tirsool* (trident) shall be impressed on all the copper coin, which may hereafter be struck at the city of Benares.” The object of this last provision is to obtain for the copper coin of the Benares mint, a local currency and circulation which the pice coined in Calcutta did not possess.

terfeiting

terfeiting, clipping, filing, drilling, defacing or debasing the copper coin, established under this regulation, will be liable to be prosecuted in the criminal courts, and to be punished as the law may direct.”*

Persons liable to prosecution for melting, counterfeiting or otherwise debasing the coin.

4. UPPER PROVINCES.

IN the provinces ceded by the Newab Vizeer in 1801, as well as in those subsequently ceded by DOULUT RAO SINDHEEA, and the Peshwa, the current silver coin consisted of rupees of various denominations, differing in weight, and standard. Copper coins, of different weight and value, were also current. But gold-mohurs never obtained an extensive circulation in these provinces; silver having, from time immemorial, been the general measure of value; and no relative value being fixed between the gold-mohur and silver coin. The coinage of gold-mohurs had consequently been long discontinued by the native Government; and it was not judged necessary by the British Government, on acquiring these provinces, to establish a gold coinage in them. It was deemed sufficient to provide for a silver, and a copper coin, of determinate weight and standard; and to permit the circulation of gold-mohurs, as heretofore, at the value which individuals might agree to put upon them. The following rules for these purposes were accordingly enacted in Regulation 45, 1803, and subsequent regulations, for the provinces ceded by the Newab Vizeer; and were extended by Regulation 11, 1805, to the provinces ceded by DOULUT RAO and the Peshwa. 1. *First*. “A silver coin, to be denominated the *Lucnow sicca* rupee of the forty-fifth sun, struck in the mint

Preamble to Regulation 45, 1803. State of silver, copper, and gold coinage in the upper provinces, when they were ceded to the company. Regulation 45, 1803. Section 42.

Not judged necessary to establish a gold coinage in these provinces.

Rules for silver and copper coinage in Regulation 45, 1803, extended by Regulation 11, 1805, to provinces ceded by Doulut Rao and the Peshwa.

Section 2. A silver coin to be denominated the *Lucnow sicca*.

* A further provision in Section 6, Regulation 10, 1809, that after six months “no copper coin, except that established by this regulation shall be considered as a legal tender in payment of any proportion of any public or private demand,” was modified by Section 3, Regulation 12, 1810; which declared that “the copper coin, which has been hitherto current in the province of Benares, shall continue to be received in discharge of all private and public demands, until the Governor General in Council shall signify by proclamation, that an adequate supply of copper coin of the size and weight prescribed by Section 3, Regulation 10, 1809, has been introduced into the province of Benares.” A proclamation to this effect has accordingly been issued. It was promulgated by the magistrate of the city of Benares in the month of August 1815.

the rupee, of the forty-fifth sun, of the weight and standard of the Lucnow rupee, declared the established legal silver coin in the ceded provinces.

Regulation 3, 1806, Section 2. Weight and standard of the rupee mentioned in the above clause.

Regulation 45, 1803, Section 4. A mint established at Furruckabad for coining rupees, and quarters of rupees, of the prescribed weight and standard. Mints to be increased, reduced, or removed, according to the pleasure of the Governor General in Council.

Section 3. Prescribed size and form of the Lucnow forty-fifth sun sicca rupee.

Section 6. Size and impression of the halves and quarters of rupees.

Section 7.

at Furruckabad, corresponding in weight and standard with the sicca rupee at present struck at Lucnow, in the dominions of the Newab Vizeer, and thence denominated the Lucnow rupee, is hereby declared to be the established and legal silver coin in the provinces ceded by the Newab Vizeer to the English East India Company." *Second.* The following is a specification of the weight and standard of the Lucnow sicca rupee, of the forty-fifth sun, referred to in the above clause.

Troy weight, 173 grains.

Assay, Touch, or parts of fine silver in 100—95, 5. Alloy 4, 5.

2. "A mint shall be established at, or in the immediate vicinity of, the town of Furruckabad, in which Lucnow sicca rupees of the forty-fifth sun, and of the prescribed weight and standard, and half and quarter rupees, of the same standard and proportionate weight, will be coined. It shall be competent to the Governor General in Council, by an order in Council, to increase or reduce the number of mints in the ceded provinces, or to remove the mint or mints to any other place or places within the dominions of the Company, according as he shall judge proper; and every mint which shall be established shall be subject to the rules contained in this regulation, regarding the mint directed to be established at Furruckabad, or such other regulations as may be hereafter enacted," 3. "The Lucnow forty-fifth sun sicca rupee, as established by this regulation, shall be of the same size and form as the nineteenth sun sicca rupee, struck in the mint at Calcutta."* 4. "The half and quarter rupee shall be proportionally less in size than the rupee, according to their respective value; and shall bear the same impression as the rupee." 5. "To guard as far

* Section 5, Regulation 45, 1803, further prescribes an impression corresponding with that of the nineteenth sun sicca rupee coined at the Calcutta mint; except that the 45th year of the reign is substituted for the 19th; and *zurb*, or struck, at Furruckabad, instead of Moorshedabad. In pursuance of former usage, the 19th sun sicca rupee is still supposed to be coined at the latter place. The Persian inscription upon it, which on the face of the coin is metrical, (viz. *Siccah zud bur huf kishwur Sôyah i fuzl i-Iab; Hâmee i-deen i-Mohummud Shâh Âlum Bâdshâh*;) will not bear a literal translation. But with the reverse (*Sun 19 i julioos i-mymunut Mânsoos zurb-i Moorshidûbêd*) it implies that the rupee was coined at Moorshedabad, in the 19th year of the reign of SHAH AALUM, defender of the faith of MOHUMMUD.

as possible against the counterfeiting, clipping, drilling, filing, defacing, or debasing the silver coin, the edges of such coin shall be milled; and the dies shall be made of the same size as the coin, so that the whole of the impression may appear upon the surface of it." 6. *First.* "The dies for striking the silver coin in the ceded provinces shall be cut in the mint at Calcutta, and shall be sent by the mint master at Calcutta to the mint master at Furruckabad. When the dies are broken, or no longer serviceable, they shall be returned to the Calcutta mint." *Second.* "The mint master at Calcutta shall cause a private mark to be put upon all dies which may be prepared for the mint at Furruckabad; but in such a manner as not to be distinguishable by the naked eye, or by persons unacquainted with it. These marks shall be varied as often as the mint master at Calcutta shall judge proper, upon new dies being made; and he shall keep a register of them, in order that he may be enabled to discover any debased or defective coin which may be hereafter found in circulation." 7. The general superintendence of the mint at Furruckabad, which was originally vested by Section 9, Regulation 45, 1803, in a committee, consisting of the magistrate and collector of zillah Furruckabad, is transferred to the Board of Commissioners for the upper provinces, by Section 9, Regulation 10, 1807. 8. It is further provided by Section 10 of the regulation last mentioned, that the immediate conduct of the business of the mint at Furruckabad, which was first committed, under Section 10, Regulation 45, 1803, to one officer, denominated the mint and assay master, "shall be vested in two separate officers, viz. a mint master, and an assay master, with such salaries and establishments as the Governor General in Council shall think proper to assign for those officers respectively." 9. It is "the duty of the magistrate of Furruckabad to visit the mint monthly; and to make such enquiries as he shall consider necessary, to satisfy himself of the manner in which the business of the mint is conducted; reporting the result of his enquiries, in cases appearing to him to require it, to the Governor General in Council. The magistrate shall at the same time take indiscrimi-

nately

Coin to be milled, and to be of the same size as the die, so as to receive the whole impression on it.

Section 8.
The dies to be cut in the Calcutta mint. To be returned to the Calcutta mint, when no longer serviceable.

Section 12.
Mint master at Calcutta to have private marks put upon the die, prepared for the mint at Furruckabad.

A register of new dies to be kept by the mint master at Calcutta.

Regulation 10 1807, Section 9
General superintendence of mint in whom vested.

Section 10.
Immediate conduct of business vested in mint master and assay master.

Regulation 9, 1812, Section 19.
The magistrate of Furruckabad to visit the mint monthly, and to transmit specimens of the coinage.

nately out of the heaps of coin at the foot of the striking presses, twenty pieces of each description of coin which may have been struck off, and transmit ten of each to the secretary to Government in the Public Department, for the purpose of being forwarded to the Honorable the Court of Directors; and the other ten to the assay master at Calcutta, in order that he may cause the coin to be examined and assayed. If the specimens of coin so transmitted shall be found not to be of the proper standard, or if the coin shall be defective in workmanship, or in any other respect, the assay master shall report the circumstance to the Governor General in Council for his orders." 10. This rule is declared to supersede an antecedent provision in Section 11, Regulation 45, 1803, whereby it was made the duty of the judge of circuit, who should hold the half yearly jail delivery in the zillah of Furruckabad, "to visit the mint at that station, at each session; and to make such enquiries as he shall consider necessary to satisfy himself of the manner in which the business of the mint is conducted; reporting the result of his enquiries to the Governor General in Council." 11. "Persons charged with counterfeiting, clipping, filing, drilling, defacing, or delasing the silver coin, struck in the mint at Furruckabad, shall be committed to the criminal courts, and shall be punished as the law may direct." 12. "All Lucnow forty-fifth sun sicca rupees, struck in the mint at Furruckabad, of the prescribed weight and standard, and also the halves and quarters of such rupees, shall be considered to be a legal tender of payment, in all public and private transactions, throughout the ceded provinces, according to their prescribed value. If a native officer of any public treasury shall be convicted, before the court of adawlut of any zillah, of refusing to receive in payment any such rupees, or the halves or quarters of such rupees, according to their established value, the court shall adjudge the offender to be dismissed from his office; and shall further compel him to pay to the complainant his costs of suit, and such damages as to the court may seem proper, upon a consideration of the circumstances of the case." 13. *First.* "All

Lucnow

Clause 9.
Above rule
supersedes a
provision in
Section 11, Re-
gulation 45,
1803, that the
judge of circuit
report to the
Governor Ge-
neral in Coun-
cil the manner
in which the
business of the
mint is conduc-
ted.

Section 14.
Persons charged
with counter-
feiting or defac-
ing the coin,
how to be dealt
with.

Section 15.
All Lucnow
forty-fifth sun
sicca rupees,
struck at Fur-
ruckabad, to be
a legal tender of
payment in all
public and pri-
vate transac-
tions.

What penalty
incurred for re-
fusing to re-
ceive such ru-
pees.

Section 23.

Lucnow sicca rupees of the forty-fifth sun, struck in the mint at Furruckabad, which shall not have lost by wear a greater proportion of their full standard weight than six annas per cent, or six sixteenths of a rupee in one hundred rupees, shall be considered as of standard weight, and shall be received as such in all public and private transactions." *Second.* "The rule prescribed in the preceding clause shall be considered applicable to those Lucnow forty-fifth sun sicca rupees only, struck in the mint at Furruckabad, in which the loss of weight has been occasioned by wear. Whenever rupees of the above description may have lost any part of their full weight, although such loss shall not exceed six annas per cent, by filing, clipping, or other artificial means, such rupees shall not be considered as of standard weight; and if tendered in payment at any of the public treasuries, or offices, they shall be received at their intrinsic value, as hereafter directed; and the podars, or examiners of the public money, are required to separate all such rupees." 14. *First.* "Lucnow rupees of the forty-fifth sun, struck in the mint at Furruckabad, which may be deficient in weight, from any other cause excepting wear, or deficient in weight from wear in a greater amount than six annas per cent, shall be received conformably to the following rule." *Second.* "For one hundred Lucnow sicca weight of such light forty-fifth sun sicca rupees, the payer shall receive credit for one hundred Lucnow forty-fifth sun sicca rupees. The light rupees, thus received at the public treasuries, shall not be again disbursed; but shall be invariably sent to the mint at Furruckabad to be re-coined." 15. "The two preceding rules are to be considered "equally applicable to the halves and quarters of the forty-fifth sun Lucnow sicca rupee, struck in the mint at Furruckabad." 16. "The mint master at Calcutta shall furnish the Board of Commissioners, for the use of the collectors in the ceded provinces, with stampd metal weights, of fifty Lucnow sicca weight each; or such other weights as may be required by them; and all receipts and payments, at the public treasuries, shall be regulated conformably to such standard weights." 17. *First.* As a sufficient

All Lucnow forty-fifth sun sicca rupees, which shall not have lost by wear more than six annas per cent, or six-sixteenths of a rupee in a hundred, to be considered of standard weight and to be received as such in all transactions.

Section 34. The foregoing rule not applicable to rupees in which the loss of weight shall not have been occasioned by wear, but by artificial means.

Such rupees to be received at their intrinsic value.

Section 35. Rule to be observed in receiving rupees deficient in weight from any other cause excepting wear, or from wear exceeding six annas per cent.

Section 36. The rules contained in Sections 33, 34, and 35, applicable to halves and quarters of rupees.

Section 37. The mint master at Calcutta to furnish the said weights, for the use of the collectors.

Reg 46, 1862.

Sec. 17.
Provision for re-
ceiving specie
of 1715, till a
sufficient num-
ber of the Luc-
now forty fifth
sun sicca rupee
could be coin-
ed.

Reg. 3, 1806,
Sec. 5
Table of rates.

number of the Lucnow forty-fifth sun sicca rupees, to be struck in the mint at Furruckabad, could not be immediately introduced into circulation, it was provided by Sections 17, and 18, Regulation 45, 1803, that the various sorts of rupees current in the ceded provinces, "will be received at the public treasuries, from the proprietors and farmers of land, in payment of their revenue, until the commencement of the year 1216 Fussily, at the fixed rates specified in the table which will be published in a future regulation; which rates will be calculated conformably to the difference of the intrinsic value which each species of rupee bears to the Lucnow forty-fifth sun sicca rupee, established by this regulation, as ascertained by assay in the Calcutta mint." *Second.* The following table of rates was accordingly published in Section 5, Regulation 3, 1806.

TABLE shewing the intrinsic comparative value, that each species of rupee bears to the Lucnow sicca rupee, or in other words, the number of Lucnow sicca rupees intrinsically equal to one hundred Lucnow sicca weight of each of the different sorts of rupees specified in the Table.

SORTS OF RUPEES.				Lucnow sicca Weight		Lucnow sicca Rupees.	
Siccas of Lucnow, troy weight grains 173;							
fine silver, grains 165. 22,				-	100	100	0 0
Calcutta, Moor-hedabad, Patna, and Dacca,							
19th sun sicca rupees,				-	do.	102	9 9
Furruckabad rupees,				-	do.	97	10 3
Bareilly rupees,				-	do.	97	6 0
Nujeebabad rupees,				-	do.	96	5 3
Lucnow rupees coined at Allahabad,				-	do.	96	13 8
Old 18 suns Lucnow,				-	do.	95	8 9
Viziery rupees,				-	do.	89	4 2
Benares rupees,				-	do.	101	0 8
Corah 12 suns,				-	do.	91	9 11
Corah 20 suns,				-	do.	91	1 6
Corah Sonwat,				-	do.	92	14 10
Furruckabad 31 and 39 suns,				-	do.	97	6 0

SORTS OF RUPEES.

			Lucnow Sicca Weighs.	Lucnow Sicca Rupees.
Etawah rupees,	-	"	100	95 4 6
Saharunpore old rupees,	-	"	do.	96 9 6
Saharunpore new rupees,	-	"	do.	96 13 8
Panniput rupees,	-	"	do.	95 12 11
Samlie rupees,	-	"	do.	94 12 2
Kerhanah rupees,	-	"	do.	96 5 3
Lundowrah rupees,	-	"	do.	95 12 11
Thannah rupees,	-	"	do.	91 12 2
Ruckaby rupees,	-	"	do.	91 1 6
Sirdannah rupees,	-	"	do.	96 5 3
Delhi siccas,	-	"	do.	101 0 8
Delhi 38 suns,	-	"	do.	96 9 6
Bhurtpore rupees,	-	"	do.	100 12 6
Khotah rupees,	-	"	do.	95 8 8
Ghutsun 29 suns,	-	"	do.	99 7 6
Mahomed Shahee 19 suns,	-	"	do.	101 0 8
Gocul 46 suns,	-	"	do.	96 13 8
Jeend rupees,	-	"	do.	81 13 0
Siccas of Lucnow,	-	"	do.	100 0 0
Gourshahee 7 suns,	-	"	do.	95 4 6
———— 8 suns,	-	"	do.	95 12 11
———— 9 suns,	-	"	do.	93 3 0
———— 10 suns,	-	"	do.	93 3 0
———— 11 suns,	-	"	do.	92 6 5
———— 12 suns,	-	"	do.	91 5 8
Siringury rupees,	-	"	do.	93 7 2
Tamboshahee rupees,	-	"	do.	91 9 11
Ballashahee rupees coined at Culpee,	-	"	do.	93 11 5
Hattrass rupees,	-	"	do.	99 7 6
Bindrabunsee rupees,	-	"	do.	87 6 10
Generally struck by Perron,	-	"	do.	90 9 2
Deeg rupees,	-	"	do.	91 9 11
Gourshahee rupees,	-	"	do.	98 11 0
Bombay rupees,	-	"	do.	96 5 3

Old

SORTS OF RUPEES.

	Lucnow Sicca Weight.	Lucnow Sicca Rupees.
Old arcots, Moorshedabad and Calcutta,	100	97 10 3
French arcots, - - - - -	do.	99 7 6
Madras arcots, - - - - -	do.	98 11 0

Reg. 4, 1807,
Sec. 2.
Operation of
Sec. 18, Reg.
45, 1803, sus-
pended, for a
limited period,
in consequence
of delay in pro-
mulgating above
table.

Reg. 4, 1807,
Sec. 3.
In what species
of rupees the
revenue may
be paid, during
such period;
and at what
rate of bat a.

Section 6.
Rule enacted
in section 17,
Regulation 45,
1803, and Re-
gulation 3,
1806, to be in
force and
effect until the
expiration of
the existing
settlement
The ensuing set-
tlements to be
made in the
Lucnow sicca
rupees.

Section 7.
Not that the
Lucnow rupees
to be received
in the public
treasure after
the expiration
of the existing
settlements un-
less authorized
by a public pro-
clamation of the

Third. But in consequence of the delay which took place in promulgating the above table of rates, the operation of Section 18, Regulation 45, 1803, was suspended, by Section 2, Regulation 4, 1807, during the existence of the triennial settlement then depending; viz. until the expiration of the Fussily year 1215, in the ceded and conquered provinces, lying on the right and left banks of the river Jumna; and of the Fussily year 1216, in the province of Bundelcund. *Fourth.* It was provided by Section 3, Regulation 4, 1807, that "until the expiration of the periods above specified, the zemindars, farmers, and others paying revenue to Government, shall discharge the demands upon them, either in the species of rupees specified in their existing engagements, or in any other species of rupees which may be current in the different districts, at the rates of batta at which they were received and paid, previously to the promulgation of the table of rates contained in Regulation 3, 1806." 18. *First.* By section 6, Regulation 4, 1807, it was directed that "at the expiration of the present depending triennial settlement, viz. at the close of the year 1216 in Bundelcund, and 1215 in the other parts of the ceded and conquered provinces, the rule contained in Section 17, Regulation 45, 1803, and the provisions contained in Regulation 3, 1806, shall be considered to be in full force and effect. The ensuing settlements in the ceded and conquered provinces shall accordingly be made in Lucnow sicca rupees, to be adjusted according to the table of rates contained in Section 5, of the latter regulation." *Second.* It was, at the same time added, in Section 7, of this regulation, "as it may be expected that at the expiration of those periods a sufficient quantity of Lucnow sicca rupees will be generally current, to answer the ordinary purposes of circulation, no rupees of sorts shall after that time be received into the public treasuries,

treasuries, unless the Governor General in Council shall deem it advisable to authorize, by a public^o proclamation, the receipt of such rupees in particular districts, for a limited and specific period of time." 19. *First.* By Section 23, Regulation 45, 1803, it was declared that after the commencement of the Fussily year 1216, no other rupee but the Lucnow forty-fifth sun sicca rupee, struck in the mint at Furruckabad, or the halves and quarters of this rupee, "shall be legal tenders of payment in any public or private transaction." *Second.* In Section 25, of the same regulation, it was provided that "from and after the commencement of the year 1216 Fussily, no person shall recover, in any court of judicature in the ceded provinces, any sum of money, under a bond, or other writing, or any agreement, written or verbal, entered into within the limits of the provinces aforesaid, after the abovementioned date, by which any sum of money, shall be stipulated to be paid in any species of rupee, excepting in the Lucnow sicca rupee, of the forty-fifth sun, as established by this regulation, or the halves and quarters of the same." *Third.* But this provision, with an application of it in Section 26, Regulation 45, 1803, to engagements between landholders and farmers of land, and their tenants, was rescinded by Section 9, Regulation 13, 1807; for the reasons which have been already stated for rescinding similar provisions in the lower provinces; and the following rules were substituted by Sections 10 to 14 of Regulation 13, 1807. *Fourth.* "Bonds or other engagements, and all agreements written or verbal, which have been or may be entered into, within the ceded provinces (including the several zillahs specified in Section 2, Regulation 2, 1803), or within the conquered provinces and Bundelcund (including the zillahs specified in Section 3, Regulation 8, 1805), stipulating for the payment of money in any other species of rupee than the Lucnow forty-fifth sun sicca rupee, established as the legal coinage of the said provinces by Section 2, Regulation 45, 1803, and Section 28, Regulation 8, 1805, may be liquidated, at the option of the debtor, in the Lucnow forty-fifth sun sicca rupee, described in Section 2, Regulation 3, 1806,

proclamation of
the Governor
General in
Council.

Reg. 45, 1803,
Sec. 23.
What to be con-
sidered legal
tenders of pay-
ment after the
Fussily year
1216.

Section 25.
Engagements in
any other spe-
cies of rupee
declared not re-
coverable.

Reg. 13, 1807,
Sec. 1.
This p. a ty
rescinded, and
not er provisions
substituted.

Section 10.
How bonds, or
other engage-
ments, or agree-
ments, written
or verbal, enter-
ed into within
the provinces
herein specified,
stipulating for
the payment of
money in any
other species of
rupee than the
the Lucnow forty-
fifth sun
sicca rupee, may
be liquidated at
the option of the
debtor.

Section 17.
How bonds or other engagements, stipulating for the payment of any species of rupee not specified in the table referred to in the preceding section, may be liquidated at the option of the debtor.

Section 18.
How the courts of judicature, in the provinces here specified, are to give judgment, after the commencement of the Fussily year 1216, upon bonds or engagements stipulating for the payment of any other species of rupee than the Lucnow forty-fifth sun sicca rupee.

Section 19.
After what period all engagements entered into, in the provinces specified in the preceding section, are required to be in the Lucnow forty-fifth sun sicca rupee. Penalty for breach of this rule.

Section 24.
After what period the courts of judicature are to enforce the penalty in

at the valuation stated in the table of Lucnow sicca and other rupees, contained in Section 5, of that regulation." *Fifth.* "If the bond or other engagement, or agreement, stipulate for the payment of any species of rupee not specified in the table referred to in the preceding section, it shall be at the option of the debtor to pay in Lucnow sicca rupees of the forty-fifth sun, the intrinsic value of the rupees stipulated, to be ascertained by assay at the Furruckabad mint, in the manner provided by Section 21, Regulation 45, 1803." *Sixth.* "After the commencement of the Fussily year 1216, the period fixed by Section 23, Regulation 45, 1803, for the exclusive currency of the Lucnow forty-fifth sun sicca rupee, the courts of judicature, within the ceded and conquered provinces, and Bundelcund, (including the zillahs specified in Section 2, Regulation 2, 1803, and Section 3, Regulation 8, 1805,) in giving judgment upon bonds, or other engagements, or agreements, stipulating for the payment of money in any other species of rupee than the Lucnow forty-fifth sun sicca rupee, described in Section 2, Regulation 3, 1803, shall adjudge the amount to be payable in the prescribed Lucnow forty-fifth sun sicca rupee, according to the table of valuation contained in Section 5, Regulation 3, 1803; or, if the stipulated species of rupee be not specified in that table, according to the intrinsic value, to be ascertained by assay in the manner prescribed by the preceding section." *Seventh.* "All bonds and other engagements, or agreements, for the payment of money, which may be entered into, after the commencement of the Fussily year 1216, in any part of the provinces described in the preceding section, are required to be in the Lucnow forty-fifth sun sicca rupee, established as the legal coinage of the said provinces; under penalty for disobedience to this requisition, of a fine to Government, to be levied from the person taking such engagement, not exceeding one fourth of the amount stipulated to be paid in any other species of rupee." *Eighth.* "The civil courts of judicature shall enforce the penalty provided for in the preceding section, in all cases judicially before them, wherein
any

any bond, engagement, or agreement, executed after the commencement of the Fussily year 1216, may be found to stipulate for the payment of any other species of rupee than the Lucnow forty-fifth sun sicca." 20. After the time limited for the receipt of rupees of sorts, "if any native officer, at any of the public treasuries, shall be convicted of receiving, in payment of a public demand, any silver coin, excepting the Lucnow sicca rupee of the forty-fifth sun, or the halves and quarters of the same, the court shall dismiss him from his office, and shall adjudge him to pay such fine to Government as may appear to the court to be adequate to the offence." 21. *First.* "From and after the first day of May 1812, all silver bullion or coin, not being rupees struck at the mint of Furruckabad, which may be brought to that mint for coinage, shall be subject to a duty at the rate of two per cent on the produce of such bullion, or coin, in sicca rupees of the Lucnow weight and standard; and the amount of the said duty shall be accordingly deducted from the return to be made to the proprietor." *Second.* "Individuals, who may be desirous of it, shall be at liberty to have their bullion or coin converted into halves or quarters of a rupee, on condition of paying a duty of one per cent, in addition to the duty of two per cent established by the preceding clause. Should the coin however, brought to the mint for that purpose, consist of Furruckabad sicca rupees, the proprietors shall only be subject to the additional duty of one per cent; and not the duty of two per cent payable under the preceding clause, on all other coin and bullion." *Third.* "All silver bullion and coin, being inferior to the Lucnow sicca standard, as established by Section 2, Regulation 3, 1806, shall be refined to that standard; and the proprietors shall be subject, in addition to the duties established by the preceding section, to a charge of twelve annas per cent on account of the loss and expense of refining, exclusive of the established deduction on account of inferiority of standard." *Fourth.* "On delivery of the bullion or coin into the mint, the mint master shall grant to the proprietor a receipt, entitling him to a certificate from the assay master for

the

cases judicially before them, wherein a breach of the above rule may appear.

Reg. 45 1809,
Sec. 28.
Native officers at any of the public treasuries liable to fine and dismissal for receiving any coin but that prescribed.

Reg. 2, 1812,
Sec. 8.
Silver bullion or coin, not being struck at Furruckabad, liable to a duty of a per cent on coinage there.

Persons requiring halves and quarters of a rupee to pay an additional duty of 1 per cent but Furruckabad rupees so coined not to pay the duty prescribed in the preceding clause.

Rules as to bullion &c. of an inferior standard.

Rules as to receipts and certificates to be delivered to the proprietors, and

the discharge
thereof.

Persons dissatis-
fied with the as-
say master's re-
port may with-
draw the bulli-
on free of duty.

Reg. 45, 1803.
Sec. 37.
Regille's to be
ke. c. u. lic
inspector in
the Furrucka-
bad mint.

Section 49.
Gold coin to
continue in cir-
culation as heret-
ofore. No to
be considered a
legal tender of
payment in any
transactions.

Section 43.
A copper coin

the net produce of such bullion, or coin, agreeably to the table subjoined to this regulation, and marked No. 3, * payable at the treasury of the collector of Furruckbad, at the expiration of fifteen days, if the produce be deliverable in whole rupees, and at the expiration of twenty-five days, if the produce be deliverable in halves or quarters of a rupee, from the date of such certificate. In cases in which the produce may be deliverable in halves or quarters of a rupee, the additional duty, established by clause second, is of course to be deducted from the amount payable to the proprietor." *Fifth.* "The proprietor of any bullion or coin brought to the Furruckabad mint for coinage, who may be dissatisfied with the assay master's report of its value, shall be at liberty to withdraw such bullion or coin, without being subject to the duties on coinage established by the present regulation."

22. "The following registers shall be kept open, at the mint of Furruckbad, for public inspection; viz. *A register of unassayed silver bullion delivered into the mint*; specifying the quantity delivered, the date on which it was received, and the name of the proprietor. *A register of silver bullion, assayed and refined*; specifying the date on which it was assayed, the date on which it was refined, the name of the proprietor, and the produce in the Lucnow forty-fifth sun sicca rupees; together with the date of the certificate granted for the produce, and the date on which such certificate was discharged." 23. Gold-mohurs shall be permitted to be circulated in the ceded provinces, as heretofore, according to the value which individuals, receiving and paying the same, shall determine; but gold-mohurs shall not be considered to be a legal tender of payment, in any public or private transaction; nor shall they bear any fixed rate of value, compared with reference to the silver coin, or Lucnow forty fifth sun sicca rupee, struck in the mint at Furruckabad; but they shall continue to circulate, as heretofore, agreeably to the established usage of the country." 24. *First.* A copper coin, of the forty-fifth sun, and

* This table corresponds with that already noticed for the silver bullion of the lower provinces; except that it states the assay compared with Furruckabad sicca standard, instead of the Calcutta standard.

consisting of pure copper, was established for the ceded provinces by Section 43, Regulation 45, 1803, and extended to the conquered provinces and Bundelcund by Section 2, Regulation 11, 1805. *Second.* The following is a specification of the weight of the copper coin, established by those regulations.

“Troy weight $284\frac{1}{2}$ grains. Lucnow sicca weight 1 rupee, 10 annas, $3\frac{1}{2}$ pice. Calcutta sicca weight 1 rupee, 9 annas, 4 pice.”

Third. “It is to be understood, that pice shall only be coined on account of Government; and in such quantities, and at such times, as the Governor General in Council may direct.”* 25. “The form, size, and impression of the copper coin, so established, shall correspond with those prescribed for the Lucnow forty-fifth sun sicca rupee; but the edges of such copper coin shall not be milled; nor have any mark or impression thereon.” 26. “Copper pice, of pure copper, and of the weight prescribed, and half pice of the same standard and proportionate weight and size, will be coined in the mint established at Furruckabad. The half pice shall bear the same impression as the whole pice. A smaller division of the pice than the half pice shall not be coined.” 27. *First.* It was enacted by Section 49, Regulation 45, 1803, that “the copper coin, struck in the mint at Furruckabad, shall be received at, and issued from, the public treasuries, and shall also be paid and received, in private transactions between individuals, in the ceded provinces, for the payment of any sum, being the fractional part of a rupee. Pice received, or issued, under this section, shall be received and issued, according to the rate at which pice may be current in the bazar, with reference to the established silver coin at the time when the payment may be made, unless any other rate shall be mutually agreed upon by the parties.” *Second.* But this rule has been since qualified by a provision in Section 1, Regulation 3, 1806, that “the pice will be issued from the treasury of Government at the rate of twenty six for a Lucnow sicca rupee.”

established in the upper provinces.

Reg. 3, 1806, Sec. 3. Weight of the established coin.

To be coined for Government only.

Reg. 45, 1803, Sec. 44. Form, size, and impression, which the copper coin shall bear. The edges not to be milled.

Section 45. Copper pice, and half pice, will be coined in the mint at Furruckabad.

Section 49. Copper coin, for any sum below the value of one rupee, to be considered a legal tender of payment, in all transactions.

To be received and issued in the foregoing case at what rate.

Reg. 3, 1806, Sec. 4. Qualification of above rule.

* This provision, in Section 3, Regulation 3, 1806, appears to have superseded the coinage for individuals, provided for in Sections 46, 47, and 48, Regulation 45, 1803.

Reg. 45, 1803,
Sec. 50.
Penalty incur-
red by a dis-
obedience of the
rule prescribed
in the foregoing
section.

If the offender
be an officer of
government, to
be dismissed
from his office.

Section 51.
What rules for
the silver coin-
age applicable
also to the cop-
per coinage.

Section 52.
What officers of
Government
liable to be su-
ed in civil courts
for breach of
coinage regula-
tions.

Reg. 11, 1805,
Modified by
Reg. 10, 1817.
Native officers
of mint at Furruckabad by
whom nomi-
ated, and what
rules applicable
to their appoint-
ment and re-
moval.

Reg. 45, 1803,
Sec. 41.
Reg. 11, 1805,
Sec. 3.
Mints at Bareilly
and Saharunpore
withdrawn.

28. Any public officer, or other person, convicted before a court of adawlut, of refusing to receive in payment the fractional part of a rupee in the copper coin established, in the adjustment of an account, as directed, is declared "liable to pay to the complainant his costs of suit, and such damages as to the court may seem proper, upon a consideration of the circumstances of the case. If the offender shall be a native public officer of Government, the court shall further adjudge him to be dismissed from his office." 29. The provisions contained in the ninth, tenth, and eleventh rules stated for the silver coinage, are also declared applicable to the copper coinage established for the upper provinces. 30. Collectors of the revenue, commercial residents, or agents, the mint and assay master at Furruckabad, and their respective officers, are "liable to be sued for damages, in the zillah courts to which they may be respectively amenable, for any breach of the regulations enacted respecting the coinage in the ceded provinces."

It remains only to observe, under this head, that the native officers of the mint established at Furruckabad are nominated by the mint and assay master, subject to the confirmation of the Board of Commissioners; and to the general rules for the appointment and removal of native officers in the revenue department, which have been already stated; that the mints, formerly established at Bareilly and Saharunpore, were ordered to be withdrawn by Section 41, Regulation 45, 1803, and Section 3, Regulation 11, 1805; and that the mint at Furruckabad is the only one now established for the upper provinces, under the discretion reserved to Government by Section 4, Regulation 45, 1803.

5. M I N T C O M M I T T E E.

THIS committee, as constituted under an order from the Court of Directors dated the 3d September 1813, consists of the senior

Constitution
of mint com-
mittee.

senior member of the Board of Revenue, the accountant general, and the chief secretary to the Government. The secretary in the Financial Department was also appointed a member of the committee by the Governor General in Council. The powers and duties of this committee, which has existed under a different constitution for some years, have not been defined by any printed regulation. But they are understood to possess a direct control over the Calcutta mint in all its departments; and a more general superintendence over the mints at Benares and Furruckabad. They are also the medium of correspondence between the officers of these mints and Government; and are referred to upon questions connected with the mints at Fort St. George and Bombay. The members of this committee may at any time visit the Calcutta mint, and take specimens of the coins. This is usually done by one of the members every fortnight; and five pieces of each coin are transmitted, through the chief secretary, to the Honorable Court of Directors, for the purpose of being examined by the King's assay master at the mint in London.

Powers and duties of this committee.

BEFORE the enactment of Regulation 2, 1812, which established a duty of 2 per cent upon the coinage of silver, and $2\frac{1}{2}$ per cent, upon that of gold, (as detailed in stating the rules in force for the Calcutta mint) the whole of the mint expenses having been defrayed by Government, without any return except a small charge on refining metal, and a trifling profit on mixing metals, which was set off against the expense, the annual disbursements for the mint, beyond the public receipts, were very considerable. But from the accounts of the official year 1814-15, it appears that the duties and profits of the Calcutta mint, amounting in that year to sicca rupees 1,37,710, were nearly adequate to the entire expense incurred (rupees 1,39,422) on a coinage of 93,859½ gold-mohurs, and 65,89,913 rupees; or an aggregate value, in gold and silver, of sicca rupees 80,91,661. Of the stated expenditure, which includes the salaries of the mint master and assay master, an assistant to the latter, and their respective establishments, with charges for

Annual disbursements of the mint considerably exceeded the receipts before the enactment of Reg. 2, 1812.

But duties and profits of the Calcutta mint, in 1814-15, nearly equal to expenditure.

for materials, workmen, and all other contingencies, a small sum, viz. 820 rupees, was replaced by a profit on the copper coinage; reducing the ultimate excess of actual disbursement and loss to rupees 883. The accounts of the Benares mint for the same period (May 1814 to April 1815) are still more favorable; as they exhibit a receipt of sicca rupees 77,802 15 6; and an expenditure of rupees 75,647 10 4 only. But in the Furruckhabad mint the receipts of 1814-15 did not exceed sicca rupees 7,863 13 11, whilst the disbursements amounted to rupees 74,694 11 4.

And receipts of
Benares mint
in the same year
exceeded the
disbursements.

But less in the
Furruckhabad
mint.



**SUPPLEMENT TO THE 4TH SUBORDINATE HEAD OF
SECTION III.**

A S S E S S M E N T O F C U T T A C K.

SINCE the former part of this volume was printed, Regulation 3, 1815, *for continuing the existing settlement of the district of Cuttack, the pergunnah of Puttaspore, and its dependencies, until the expiration of the year 1223 Umlee*, has been enacted, in the following terms; and is added with a view to include in the present volume the whole of the regulations, concerning the land-revenue, which are in force at the end of 1815. “Whereas the unavoidable delay which has occurred in providing for the revision of the settlement of the district of Cuttack, the pergunnah of Puttaspore and its dependencies, which will expire with the present year 1222 Umlee, renders it expedient that the existing settlement should be continued in force until the expiration of the year 1223 Umlee, the following rules have been enacted, to be in force from the date of their promulgation.” § 2. “The existing settlement of the land revenue of the district of Cuttack, the pergunnah of Puttaspore and its dependencies, shall continue in force until the expiration of the year 1223 Umlee, subject to the following provisions.” § 3. “If any zemindar or farmer, who has entered into engagements for the payment of the public revenue during the existing settlement, shall not be willing to continue those engagements to the expiration of the ensuing year 1223 Umlee, he shall notify the same to the collector of Cuttack, or to the collector of Hidgellee, according as his lands may be situated within the respective local jurisdiction of those officers, on or before the 1st August next, corresponding with the 18th Sawun 1222 Bengal era; the 11th Sawun 1222 Fussily; the 19th Sawun 1222 Willaity, the 11th Sawun 1872 Sumbut; and the 24th Shaban 1230 Higeree.” § 4. “All zemindars and farmers, who shall not make a notification to the effect and within the period above mentioned, shall be held, and are hereby declared to be, responsible for the payment of the same revenue during the year 1223 Umlee, as may be specified in their engagements for the

Reg. 3, 1815
Relative to the
settlement of
Cuttack and its
dependencies
enacted since
the former part
of this volume
was printed.

Preamble.

Section 2.
The existing settle-
ment of Cut-
tack Pergunnah
Puttaspore, and
its dependencies,
to continue
in force, until
the expiration
of the year 1223
Umlee

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The zemindars
and farmers
who may not
be willing to
continue their
engagements to
the expiration of
the ensuing year
1223 Umlee, to
notify the same
to the collector
on or before the
1st August next.

Section 4.
The zemindars
and farmers,
who may not
make a notifi-
cation to the
above effect, are
declared re-
sponsible for the
payment of the
existing revenue

During the year
1223 Umlee.

Section 5.
The collectors
of Cuttack and
Hidgellee how
to proceed in
the manage-
ment of the
lands which
may be relin-
quished under
the option given
by Section 3, of
this regulation.

Section 6.
The zemindars
not to be de-
prived of the
benefit of the
pledge convey-
ed in Section 4,
Regulation 12,
1805, and con-
firmed by Sec-
tion 3, Regula-
tion 10, 1812.

Duty of the
Board of Reve-
nue, in conse-
quence.

present year 1222 Umlee." § 5. "The collectors of Cuttack and Hidgellee shall make such arrangements for the management, during the year 1223 Umlee, of any lands which may be relinquished by the zemindars or farmers, under the option vested in them by Section 3, of this regulation, as may appear to be most advisable, under the instructions of the Board of Revenue, and with the sanction of Government." § 6. "Nothing contained in this regulation shall be construed to deprive the zemindars of the benefit of the pledge conveyed in Section 4, Regulation 12, 1805, and confirmed by Section 3, Regulation 10, 1812, purporting that, at the expiration of the Umlee year 1222, a perpetual settlement will be concluded for such estates as may be in a sufficiently advanced state of cultivation, to warrant the adoption of that measure without an undue sacrifice of the public resources; and it will consequently be the duty of the Board of Revenue to report as soon as circumstances may admit, what estates may be in a state of cultivation to warrant the conclusion of a permanent settlement, either with or without an increase on the assessment of 1222 Umlee, as the condition and produce of the several estates may suggest."

END OF THE SECOND VOLUME.

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Grants made before the date above specified of no validity, if possession was not obtained prior thereto, or the lands have been since subjected to the payment of revenue, 517.

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The present possessors of all life grants prohibited from transferring them; or mortgaging the revenue of them beyond their own lives, 519 and 520.

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ERRATA.

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The running title of pages 171 to 272, instead of *Land Revenue*, should have been *Assessment of Bengal, Behar, and Orissa*.



